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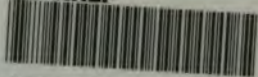
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JAPAN'S ACCESSION
TO THE
COMITY OF NATIONS

JAPAN'S ACCESSION

TO THE COMITY OF NATIONS

BY
BARON ALEXANDER VON SIEBOLD

TRANSLATED FROM THE GERMAN WITH AN
INTRODUCTION BY

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"ALEXANDER III. OF RUSSIA," "THE GERMAN EMPEROR,
WILLIAM II.," "KING EDWARD VII.," ETC. ETC.



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AUTHOR'S PREFACE

THE substance of this little work on the entry of Japan into the comity of European nations has already appeared in the form of a series of articles in the magazine *Ost-Asien*; and the author thought it right to revise and republish them as a whole, in view of the fact that the opening up of the Japanese Empire had, in the meantime, attracted universal attention to his subject.

The following narrative is based on personal observations and recollections extending over six different periods of residence in Japan, between the years 1859 and 1887, but not on official Japanese sources of information, which, unfortunately, have not yet been rendered accessible. The work of a prominent German labourer in the same field, *Japan's Volkswirtschaft und Staatshaushalt* (The Political

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Economy and Finances of Japan), by Karl Rathgen, has served him as guide and furnished him with some of his statistical matter, while recent English Blue-books provided valuable material for his account of the latest diplomatic negotiations.

Defective and unsatisfying as such an attempt to sketch the history of reform in Japan must necessarily be, the writer nevertheless thought it incumbent on him not to shirk the task, seeing that, having lived so long in the Far East as an eye-witness of the events recorded, and as an occasional assistant of their authors, he felt particularly called upon to contribute to an appreciation of the magnificent achievements of the statesmen and diplomatists of the *Meiji* Era who have laid the foundation-stone of Japan's enlightenment and international equality.

CHÂTEAU LEIPHEIM

(On the Danube)

December 1899.

TRANSLATOR'S INTRODUCTION

THE recent course of events in the Far East has once more attracted the attention of the West to that remarkable Power which, as it brought China to her knees in 1894, has again been foremost in the ranks of the nations that allied themselves for the purpose of calling the Celestial Empire to account for the outrages perpetrated by its Government and people on what may be called the rights of civilisation. In the advance on Peking to rescue the Legations of the Powers from a fate worse than that of another Cawnpore, the troops of Japan formed the strongest and most efficient contingent of the Allied Army ; and, indeed, it may be said that, but for the general assistance rendered by the Imperial Government at Tokio throughout the whole crisis, the

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cause of the West would not have been so quickly or so completely vindicated.

This was altogether a new phenomenon in the history of the world—this championing of the cause of civilisation by a Far Eastern Power like Japan, which, until a year or two ago, had not been thought worthy of the rights and privileges enjoyed by the nations of Europe in their intercourse with one another. What was the explanation of this change, this very sudden change? What is the secret of the fact that, for the last seven years at least, the attention of Englishmen in particular has been riveted on Japan much in the same way as it was concentrated on Germany after it had been regenerated by a policy of blood and iron—riveted on Japan, I say, as on a country which had suddenly assumed the form of a new and dominant force in the political arena of the Far East?

The explanation of all this is very simple. What Germany had become in Europe

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through a policy of blood and iron, Japan had attained to in the Far East by adopting the civilisation of the West, as one would exchange a mediæval mantle for a modern coat. While China still obstinately and suicidally clung to her Confucianism, with all that this imports, Japan made haste to assimilate the ideas of the Occident, with the result, among other things, that the Celestial Empire went down before her touch like crumbled clay. In the year 1868 Japan was still pretty much the Japan of old; but by 1900 she had sprung into line, almost as if at a single bound, with the most highly civilised nations of the world. The former was the year of her so-called Restoration, when the Shogunate, or Major-domo despotism of the land, had been replaced by the old Imperial power; and within about thirty years of that time Japan had been fully admitted into the fellowship of European nations as a civilised and a constitutional State—hundreds of years ahead of China.

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Nothing so rapid or complete in the shape of national transformation is recorded in the history of the world, and therefore this little work of my friend, Baron Alexander von Siebold, must have a very special interest for English readers. The Baron has the double qualification of family inheritance and personal experience for the interesting and instructive story which he tells us. A son of the celebrated German scientist and Eastern pioneer, Philip Francis von Siebold—who may be said to have been mainly instrumental in rendering Japan accessible to the ideas of the West, as witness his elaborate work, "Nippon," on the subject—Baron Alexander, when only in his thirteenth year, accompanied his father to that country, of which he was quick to master the language.

In 1861 he was appointed supernumerary Japanese interpreter to the British Legation at Yedo, where he served his diplomatic apprenticeship under men like Sir Rutherford Alcock and Sir Harry Parkes, sharing in all

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the vicissitudes of that troubled time, from the attack on the British Legation to the bombardment of Kagoshima. Four years later he was attached as political guide to Prince Minbu Taiko, brother of the Tycoon, on the occasion of his visit to various European courts, especially those of Paris and London. In 1869 he became acting Japanese Secretary to H.B.M.'s Legation at Yedo, a post which, in August 1870, he resigned and entered the Japanese service as attaché to the Department of Public Works, when he was sent to London and Frankfort on various missions, of which he acquitted himself so successfully that the Imperial Government raised him to the honorary rank of Secretary of Legation at Vienna. Recalled to Japan and attached to the Ministry of Finance, he took a leading part in the adaptation of the fiscal system of the country to the European model.

During the Satsuma insurrection he was mainly instrumental in giving the first impulse to the creation of a Red Cross Society

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for helping the wounded—a Society which may now challenge comparison with its kindred organisations in any country of the world. In 1878 the Baron was made honorary Commissioner of the Japanese Government at the Paris Exhibition of 1878, and soon thereafter he was appointed hon. Secretary of Legation at Berlin. But in 1882 his services were again wanted at Tokio, and he acted as private secretary to Count Inouyé, Minister of Foreign Affairs, at the diplomatic Conference for the revision of the international treaties. In the interval between the first and second Conference for that purpose he returned to Berlin and then to Rome, where he was attached to the respective Legations, after which he went back to Tokio, where he received the honorary title of Councillor of Legation, to take part in the last international Conference for the treaty revision aforesaid.

Once more, then, he returned to Europe, and refused the offer of a Chair of Japanese in the School for Oriental Languages at Berlin,

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preferring to continue the task upon which he had been engaged in the Imperial service of Japan. Since that time Baron von Siebold has been concerned in most of the grave diplomatic negotiations affecting Japan which were held at Berlin, Berne, and above all, at London, during the Chinese war of 1894, including the negotiation of the treaty which put an end to consular jurisdiction. It will thus be seen that few, if any, can claim to be better qualified than he to tell us the most interesting and astonishing story of its sudden transition from mediævalism to modernity of the remarkable country to the service of which he has devoted his life.

C. L.

CONSTITUTIONAL CLUB,
February 1901.



JAPAN'S ACCESSION

UP to a year or two ago the public law of Europe, in accordance with its historical origin, only found complete application among the Christian States of the world. As for the non-Christian countries, on the other hand, they had only been granted the benefit of this law, in a greater or less degree, according to the measure of their civilisation.

Even the entry of the Sublime Porte into the European fellowship and comity of nations carried with it the enjoyment of the public law of Europe in but a restricted sense; and even at the present time Turkey is denied the exercise of an important sovereign right, namely that of jurisdiction over aliens, seeing that foreigners still continue subject to their own consular courts. Moreover, the Powers have reserved to themselves the exercise of other ruling rights in the Ottoman dominions, includ-

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ing those of postal administration ; while their subjects also enjoy immunity from taxation and other extraterritorial privileges. It was by Appendix III. of the Treaty of Paris, date 30th March 1856, that the Sublime Porte was admitted to the comity of European nations.¹

But this formal reception of the Sublime Porte into the fellowship of the Powers carried with it only a theoretical value, as already remarked, seeing that the Porte could not see its way, by the introduction of opportune reforms, to adapt the Turkish State to the modern Christian standard, and thus, on the ground of this result, to make positive claim to the benefits of the European law of nations. Its chief difficulty consisted in the fact that in Turkey, no less than in the other Mohamedan States, the rulers are not in a position to make headway against the dominant religion, which is hostile to all progress ; and

¹ "Sa Majesté l'Empereur des Français, Sa Majesté l'Empereur d'Autriche, Sa Majesté la Reine du Royaume-Uni de Grande-Bretagne et d'Irlande, Sa Majesté le Roi de Prusse, Sa Majesté l'Empereur de toutes les Russies et Sa Majesté le Roi de Sardaigne déclarent la Sublime-Porte admise à participer aux avantages de droit public et au concert européen," &c.

as those rulers themselves are the heads of this religion, it is impossible for them to alter the character of its institutions, seeing that this to some extent would consist of a sawing down of the branch on which they themselves are seated.

Outside of Europe, on the other hand, Japan is the only State which, after long years of effort, has succeeded in obtaining from the Occidental Powers the complete recognition of its international rights—by the Treaties which came into operation on the 17th July and 4th August 1899.

In the field of public law this is quite a new departure ; but, more than this, it also marks a new epoch in the relations of West to East.

This recognition of the justifiable claims of Japan had of course to be preceded by the triumph of European civilisation over the pristine condition of affairs in that country ; and the struggle for this purpose, of which European observers only beheld the superficial results, forms one of the most interesting episodes of modern history.

After the Restoration of the Imperial Mon-

archy in the year 1868, it had been the ceaseless object of the Japanese Government—on one hand by the introduction of reforms and the spread of a higher civilisation, and on the other by unwearied perseverance in the assertion of its international status with the Occidental Powers—to procure a revision of the treaties by which the previous Government of Japan (the Shogunate) had bound itself to the Powers in the same manner as Turkey, and indefinitely waived its claim to the exercise of important rights of sovereignty.

After the Restoration of the Imperial Government in Japan, various circumstances combined to facilitate such a policy. In the first place, the Japanese Empire had this great advantage over other non-Christian States, that it possessed an ancient civilisation of its own which, at the beginning of the Reform Era, had already reached so high a level as to make it a task of comparative ease to graft the shoot of Europe's intellectual life on to the old and sturdy Japanese stem. A country where even the poorest could read and write ; where literature, science,

and art had been cultivated, with a rare devotion, for nearly three centuries of peace; where a well-devised administration and a high scale of social order had been in existence for almost a thousand years—such a country offered to the energetic reformers of young Japan an excellent basis whereon to raise the structure of their regenerated State.

It is precisely in the political domain that the Japanese, no less than all other East-Asiatic peoples, differ so vastly from the Mohamedans, whose legal conceptions are derived from the Koran, and who are therefore not open to the adoption of the Christian law of Europe. In the Far East, on the other hand, there prevails a general indifference in religious matters, founded on the atheistic philosophy of Confucius, which leaves ethics to form the basis of jurisprudence.

In Japan also, where, after the Restoration of the hereditary monarchy (of the Mikado),¹ there began a reaction against the

¹ The word here used is the one by which foreigners generally designate the Sovereign of Japan, but this does not correspond to the proper official title.

spread of Buddhism, which had been gaining ground under the Shogunate, the ruling classes cherished no objection in principle to the introduction of European ideas of law as developed from the jurisprudence of Rome under the influence of Christianity. Even the first attempts to reform the criminal law, which had hitherto been based on the Chinese model, were made in accordance with the mild and humane principles springing from a Christian view of life. Apart from its inveterate anti-progressive tendency, it would have been much harder for the Shogunate to adopt those ideas; for the last of its ruling families, that of the Tokugawa, had identified itself closely with Buddhist sacerdotalism, which, in turn, had turned its back on toleration, the original principle of its faith, and lent itself to the persecution of the young Christian Church in Japan in the seventeenth century, resulting in the eighteenth in its complete extermination.

In contrast to the Shogunate, there existed no sort of political community between Buddhism and the restored dominion of the

Mikado. True, the historical basis of the Imperial (Mikado) dynasty was also a kind of theocracy. Yet this was related, not to Buddhism, but to Shintoism, the pristine faith of the Japanese.¹ According to the teaching of the latter, the sovereign, to be sure, was sacred—not as representing divinity on the earth, but as emanating from a dynasty descended from the Gods. The Emperor of Japan rules not only by the grace of God, but also in virtue of his descent from the creators of the land of *Yamato*, the primeval Japan, and of his being of divine origin like the heroes of ancient Greece.

The idea of this historical connection between the origin of Japan and the ancestors of the Imperial House being deeply rooted in the patriotic sentiments of the Japanese, there was no necessity for its being elevated to the rank

¹ The *Shinto* creed is based on the worship of ancestors, founders of the Empire and the Imperial dynasty. It may be remarked that the word *Shinto*, which is of Chinese origin, used to describe the primitive religion of Japan, does not appear to have been adopted until after the introduction of Buddhism in the sixth century of our era.

of a dogmatic belief. Consequently, in the new constitution of the nation, freedom of conscience and equality of all creeds before the law could be included among its principles—thus securing the introduction of Christianity on a legal basis, and paving the way for the further *rapprochement* between Japan and the West—in contradistinction to the tenacity with which the Mohamedans continued to cling to the preachings of the Koran.

Long before the proclamation of the Charter of 11th February 1889 enabled Japan to enter the ranks of the constitutional States, a series of international treaties had gradually introduced her into intimate relations with European countries, but it was only later on that the greatest of her difficulties—accession to the comity of nations—could be overcome.

In the year 1868, when the Imperial Government took over from the Shogunate the conduct of foreign affairs, these were found to be in a condition as unfavourable as they were complicated. The commercial treaties which had been concluded with the United States of North America in 1854, with Great Britain in 1858,

with France in 1858, and with Prussia in 1861, had created an intolerable, and, as it likewise seemed, an untenable state of things by reason of the Japanese having waived their right of jurisdiction over aliens, and also in consequence of their having omitted to stipulate a term for the denunciation of the agreements. The tariffs for imported and exported goods, at first pretty favourable, had by the Convention of 25th June 1866 come to be reduced to an *ad valorem* basis of only five per cent., so that an increase of the revenue, or a material improvement of the country from such a source, was out of the question. Now, as all the Treaty Powers, in virtue of the most favoured nation clause, could claim the same rights, it followed that it was thus impossible for Japan to listen to any friendly advances on the part of one or other of those Powers, and secure the partial amelioration of her condition by the granting of special concessions.

The consequence in the meantime was that, in the field of civil and criminal law, there existed in Japan as many systems of jurisprudence as the nationalities represented there ;

and as identical treaties had been concluded with fifteen States, the Japanese Government had to do with the same number of consular courts, as many legal phraseologies, and a proportionate array of procedures. Only a few of the Treaty Powers were represented by regular Consuls, and among these it was the exception to find a trained lawyer. Most of the States were represented by merchants acting as honorary Consuls, whose judgment in commercial matters was of the expert kind, but who were in danger of exhibiting many shortcomings when dealing with complicated questions of law. It often happened that they were not even subjects of the State they represented; and being themselves engaged in business, it was thus possible for a Japanese plaintiff to be confronted with a defendant and a judge in the same person.

Moreover, all these grievances were aggravated by the further fact that a Japanese plaintiff found it impossible to follow a foreign defendant to the latter's courts of appeal, most of which were situated at the other end of the earth—Leipzig, for example, or London.

The costliness of such a course, no less than their ignorance of European forms of procedure, rendered it utterly hopeless for most Japanese litigants to embark on such a hazardous enterprise.

But in addition to this state of things, sufficiently abnormal in itself, there was the further peculiarity that not only did civil and criminal cases fall within the competence of the consular courts, but that all mere police and administrative matters came to be included in it also. The Japanese authorities of course had it in their power to make laws and ordinances for the benefit of their own people—such as game laws or sanitary rules. But to foreigners such regulations did not apply, as the Japanese Government, on one hand, could not employ coercive measures against aliens, while the consular courts, on the other, could only make use of their own national laws.

One or two representatives only of the Great Powers—the English minister, for example, in virtue of the so-called “Orders in Council”—were in a position to issue decrees carrying with them penalties for their nationals,

and in this way to confer binding force on Japanese ordinances. But this only happened as a rule after the latter had been subjected to a sort of metamorphic process which entailed upon the Japanese Government the necessity of submitting to a searching criticism of its legislative measures, and frequently even to a more or less incisive limitation of their scope. Now, as this method of procedure applied to every branch of the administration, if the ordinances issued were to become valid for all foreigners, it can be imagined how difficult it was to procure approval for the most necessary of these measures from fifteen various diplomatic and consular authorities. For example, when railways were first introduced it actually happened that foreigners without tickets simply took their seats in trains and travelled to the end of their journey in spite of the protests of the guard, while the Consul concerned (in one flagrant case of the kind it was an American) declared himself incapable of punishing the offender.¹

¹ See "Papers relating to the Foreign Relations of the United States," 1878, p. 515.

In some cases also of a serious criminal nature, the accused, who had been sent home by their respective consular authorities, got off scot-free, as the laws of their countries had failed to provide for the punishment of offences committed abroad. It said much for the good conduct and self-restraint of the members of the foreign settlements in Japan that they never made themselves guilty of a still greater abuse of the exceptional position they enjoyed, and that they never indulged in worse excesses in virtue of the rights of extritoriality which had been accorded them, rights which, in Europe itself, are only extended to ambassadors and ministers. At the same time the self-restraint of the authorities and the patience of the Japanese people, who often beheld their laws infringed by foreigners, also deserved the highest praise.

After the first attempts of the Japanese Government to effect an improvement of this complicated state of things—notably by the mission of the Imperial Vice-Chancellor, Tonomi Iwakura, to the capital of the United States and the courts of Europe—had proved

the impossibility of abolishing, or even modifying, for the present at least, the consular jurisdiction (of foreign Powers), steps were taken by the Government to recover at least its police and administrative authority. These efforts received the benevolent support of the German Government, in contrast to that of England and France; and it was more particularly Herr von Stephan, the Imperial Postmaster-General of Germany, who paved the way for the abolition of the foreign post-offices (at Tokio and elsewhere) by enabling Japan to join the Universal Postal Union.

On 3rd March 1877 the Imperial Japanese Minister at Berlin, Aoki, signed a protocol, drawn up between him and the Swiss envoy, Dr. Roth, by which Japan acceded to the Berne Convention of 1874. The Japanese Government having thus taken the postal administration of the country into its own hands, there was no reason for the further continuance of the English, French, and American post-offices at the open ports of the country. It was several years more, however, before England could reconcile herself to the

logic of facts, and it required a special Convention,—concluded at Tokio on 10th October 1879 between M. Inouyé, Foreign Minister, and the British Minister, Sir Harry Parkes,—to put an end to the existence of the English post-office on the last day of the same year.

In the Paris Convention of the Universal Postal Union, of 1878, Japan appears as a contracting party on the same footing as the others ; while in July 1879 we already see her taking her seat at the London Conference for the drawing up of an International Telegraph Convention.

By a back-door Japan had thus managed to procure admittance into the diplomatic fellowship of the nations. Now, however, it was her aim to prove to Europe, by means of opportune reforms, and in virtue of her progress in the field of civilisation, that she was entitled to enter by the main portal.

The Restoration of the Imperial Government in the year 1868 had for ever done away with the so-called Shogunate, an hereditary office originating in the Middle Ages. The position of the *Shogun* was analogous to that of the

Major-domo of the Merovingians; but while the latter really parted with all their power to the Mayor of the Palace till at last the Carolingian, Pipin the Short, robbed the Merovingians of their nominal royalty, in Japan, on the contrary, the *Shogun*, on 9th November 1867, was compelled to make restitution of the power which had been entrusted to him. On 8th February 1868, the Emperor Mutsu Hito (born 3rd November 1852) assumed the reins of government as an absolute monarch.

During the long antecedent period of what may be called the Shogun interregnum—as to which it must be owned that, after some sanguinary civil wars, it had given the country two and a half centuries almost of peace—the prestige of the descendants of the old Imperial dynasty had remained intact to such an extent that none of the many successive usurpers would have dared to do violence to the sacred person of the real monarch and assume the imperial title. Therefore it was that the Mikado, although now restricted to the exercise of mere honorary rights, was always regarded as the legitimate ruler and the imper-

sonation of the national sovereignty. Thus it was that when, as a consequence of the awakening of Japan and the resultant increase of intercourse with other countries, serious complications overtook the Government of the Shogun, all patriotic men, headed by some of the most powerful magnates of the realm, rallied round the Imperial throne and compelled Keiki, the last of the Shoguns, to abdicate.

The importance of this Revolution, which was not accomplished without violent enough convulsions of a sort, can only be appreciated by remembering that in Japan the hereditary Major-domoship of the Palace dates back to the earliest times. Its pre-eminently military character had already been acquired under Minamoto Yoritomo, in the year 1185; and after continuous conflicts between the territorial magnates themselves in their efforts to attain to the highest office in the realm, the military dictatorship at last became hereditary in the Tokugawa family, who retained it up till 1867. The Shogun's full title was "*Sei-i-tai-shogun*," or "grand army-leader

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against barbarians," an expression, however, which only applied to the tribes formerly inhabiting the north of Japan, and not to foreigners.

It was by an error of judgment, based on faulty knowledge of the history and institutions of the country, that the representatives of other nations, who came in contact with Japan in the seventeenth and eighteenth centuries, described the Shogun as the real sovereign of the realm. By the travellers and missionaries of those days the Shogun was generally referred to as the Emperor, while even in modern times he was described in English treaties (the Convention, for example, of October 1854) as "His Imperial Highness the Emperor," in the English treaty of August 1858 as "His Majesty the Tycoon," and also in the Prussian treaty of 1861 as "*Seine Majestät der Taikun*." In this connection it is curious to remark that the designation of "Tycoon"—of which the literal equivalent is something like "Serenissimus"—was unknown as a Japanese title, and in the treaties aforesaid was probably adopted from the Chinese,

in order to mask the defective political status of the Shogun.

As the Restoration of the monarchy had been the first step towards national unity and regeneration, so the next was to be the abolition of the feudal system.

The feudal system of Japan, like that of Germany, was based on fiefs and vassalage. As long as the Emperor himself ruled, he was regarded as the feudal superior, who conferred crown estates or conquered territories on his warriors. The Shinto and Buddhist temples were also endowed by him with landed property. In later times, especially under the Shoguns of the house of Tokugawa, the feudal overlordship passed to them, though nominally in their capacity as mandatories of the Mikado. At the opening of Japan to foreigners, a third of the realm was under the direct rule of the Shogun, the remainder being parcelled out among the *Daimios*, or feudatory lords, who, with their vassals, formed the military nobility (*Buke*) in contradistinction to the court nobility (*Kuge*) of the Mikado, who were landless.

At the beginning of the seventeenth century

the division of the country under the feudal system had become strictly marked. The higher nobility consisted of eighteen *Kokushu*, or superior landed magnates, each of whom, in most cases, ruled a whole province, and exercised the fullest rights of autocratic sway. Thanks to the large number of their vassals, who were devoted to them, they could command as much military power as they wanted. A second class of landed magnates, the *Tozama*, were assumed by the law to have the same rights and privileges as the *Kokushu*; but they suffered from want of the necessary power to make themselves as free as the former, and it was only parts of provinces that were subject to them. A third class, that of the *Fudai*, who were the immediate vassals of the Tokugawa family (of Shoguns) formed their personal adherents, and were liable to be called upon for court and military service. Among these, again, were several families blood-related to the Tokugawa, and entitled to succeed to them in the event of the failure of their direct line.

Inside their own domains these feudal chiefs possessed jurisdiction of the high and

inferior kind, controlling the whole internal administration and exercising financial sovereignty, including, to a certain extent, the right of coinage. At their investiture they received from the Shogun a feudal charter, which also fixed the amount of their income from their domains. The nominal amount of their revenue, accruing mainly from the rent of peasant holdings, was often, it is true, not realised; but, on the other hand, it sometimes happened that the land bailiffs of the magnates in question managed to screw a still higher income out of their tenants. That the latter were often ruined in the process was a minor consideration.

Towards the Shogun himself the obligation of the territorial lords consisted in the payment of a certain amount of tribute, mostly in kind—the products of their lands and the like; in the performance of military service and in the construction of public works and buildings, by way, generally, of penal infliction, or in order to reduce the treasuries of the *grands seigneurs* who had become too opulent. Intercourse with other countries and

private feuds were alike forbidden; marriage and the adoption of children could only be indulged in with the approval of the Shogun, to whom it also fell to renew investiture on every change in the line of succession. Very oppressive was the rule which required all the nobles to reside in alternate years at the Court of the Shogun, and during their absence in the country to leave their wives and children behind as hostages in the capital, Yedo.

The weakness of a Government which allowed its sovereign rights to be divided between two hundred and sixty landed magnates was manifest. Internal disunion made resistance to the foreigner impossible, while at the same time, and for the same reason, all progressive reform was out of the question. This had long been perfectly obvious to enlightened leaders of the reform party—among whom we may only mention some who are no longer alive, such as Kido, Saigo, Okubo, and Goto.¹

It is true, as we have seen, that the fall

¹ Recent years have made great havoc among the veteran statesmen of the Restoration. Among the living the most remarkable are : Ito, Yamagata, Inouyé, Saigo (the younger), Okuma, and Itagaki.

of the Shogunate was due to the victory of some of the chief landed magnates, who were the Conservative incorporation of the feudal element, and who combined to restore the ancient throne of the Emperors; nevertheless, it was the young bloods of the lesser nobility who were the real intellectual authors of the national movement in the direction indicated, they having been the first to recognise that the continuance of the feudal system was quite incompatible with the further existence of the monarchy.

During the first years of the reign of the Emperor Mutsu-Hito, the armed resistance of the Shogunists, and of the *Fudai-Daimios* in the various provinces who had remained true to the Shogun, was broken down by the Imperial army, made up of contingents furnished by the loyal lords and the volunteer corps. Meanwhile the family estates of the Shogun Keiki himself were declared to be forfeited—a small portion of them only being handed over to a member of the house of Tokugawa, who was still a minor. His immediate vassals also were deposed and par-

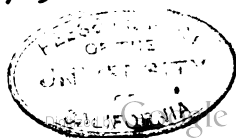
tially deprived of their estates. The Imperial Government assumed the administration of the capital, Tokio, and the former territories of the Shogun, measures being taken to create a central power with a Council of State based essentially on the old historical constitution of the Empire. Nevertheless, it must be said that the councillors at the Imperial Court, which had now been transferred from Kioto to Yedo (now Tokio), the former capital of the Shogun, found themselves in one of the most difficult positions that ever confronted a newly-installed Government.

The motley army made up of contingents sent by all the loyal chiefs was brave enough, it is true, and full of enthusiasm for its sovereign ; but, on the other hand, it was animated with a fanatical hatred of all aliens, and hostile to everything foreign. Had not their very battle-cry been : "For the Emperor and for expulsion of the barbarians," *i.e.* foreigners? Serious complications with the Western Powers had been the outcome of this fierce spirit, which found expression in the murder of Europeans and in a sanguinary assault on the Eng-

lish Minister while proceeding to the court of the Mikado. But, apart from that, the proverbial fidelity of the vassals towards their lords had become so much of a second nature with them, that all of them at a nod from their chief would have been ready—not only to lay down their lives for him in open battle, but also to kill themselves by *Seppuku*, a ceremonious form of suicide, were this required for his welfare.

To overcome those private prejudices and transform the hatred of everything foreign into an inclination for needful reforms, while at the same time applying the axe to feudalism, the canker of the national life, was a task all the more arduous, as, for the purposes of this Revolution, the reform leaders had but slight material resources and no Government troops worth the name of an army.

In France and England it was the Crown which had gradually broken the power of the feudal nobility. In Germany the higher nobility, apart from those who were mediatised, ceased to be vassals of the Empire, and became the possessors of independent power. The French Revolution of 1789 had com-



pletely done away with the private rights and privileges of the nobility. But everywhere, even in Germany, all these changes had been preceded by protracted struggles, and in France it was the power of the democracy which deprived the enfeebled and degenerate noblesse of its last prerogatives.

In Japan, on the other hand, it was the feudal nobility—or at least that portion of it who sided with the Emperor—which had come out victorious. With the exception of the noblesse of the sword and of science, the people themselves did not yet count. It was impossible to use against the nobility for the purposes of reform an enslaved and impoverished peasantry, or a citizen class which had lost its self-respect by centuries of contempt. For the rest, the despotism exercised under the Shogunate had reduced the political consciousness of the people to such a low state that their language even lacked proper expressions for the conceptions of right and freedom.

It looked, therefore, like temerity when half-a-dozen resolute patriots, backed by the European experience of a few youthful students

returned home from the West, ventured to unfold a programme which aimed, within a year or two, at mediatising all the magnates of the realm and centralising the Imperial power. Under the absolute Government of the Emperor this central power was to introduce the necessary reforms, while the people would be gradually admitted to a share in the making of their laws. The carrying out of these radical measures was facilitated by the circumstance that most of the landed magnates—with the exception of some princes distinguished for their intelligence, such as those of Chosiu, Satsuma, Tosa, Hizen, Echizen, and Uwazima—had, in the course of time, owing to the enervating life they led at their own Courts and at Yedo, sunk to the level of mere puppets of the Camarilla without any will of their own, and that therefore the Government had wholly fallen into the hands of their highest vassals, the *Karos*, in whose families those offices ended by becoming hereditary. Many of the families of those dignitaries had also degenerated in the course of time, and at the sudden breaking out of the conflicts

during the Restoration period, the real control of political affairs had passed into the hands of the younger members of the minor nobility, who combined courage with character in a rare degree.

Fortunately, however, the champions of the Restoration managed to direct the general enthusiasm and patriotism, always ready for the greatest sacrifices, into lines which should at once serve the interests of the dynasty and the cause of reform. Word was sent round that the Emperor must, in reality, be the only ruler in the country if the Empire were to be saved, and that it was in the power of a central Government to secure the independence of the nation ; while, on the other hand, the party of progress must unquestionably draw support from the superior scientific and technical achievements of the Occident—otherwise a continuance of the old system of disunited feudal magnates would tend to impair the Imperial power and render Japan, like so many other Asiatic lands, a prey to conquerors from the West. The only safety for the State, it was further argued, lay in the voluntary

mediatisation of all landed lords, and in the harmonious fusion of all classes of the people.

On 6th April 1868, there was held a kind of meeting of all the estates of the realm, at which the new Government programme was proclaimed in the sacred form of an Imperial oath. This programme already comprised the principles, not only of a constitutional, but also of a democratic form of Government, with a general representation of the people. Among other things it ran: "All State measures are to be grounded on public opinion;" "Unity to prevail between Government and People;" "civil and military government to be separated no longer" (in other words, abolish the predominance of the military noblesse). Furthermore, there was to be a modification of the manners and customs of ancient times, while justice and impartiality were to become the basis of the new State. Above all things knowledge and culture were to be sought for far and near so as to establish the security of the Empire. Such were the principles which, beyond all question, have

developed into the present Parliamentary system of Japan.

In May 1869 there was published an address by the princes of Western and Southern Japan, who, in the previous year, had done most to restore the monarchical form of government. These were the landed lords of Satsuma, Choshu, Tosa, and Hizen, who had recognised the necessity of centralising the government, and who had voluntarily placed at the disposal of the Emperor the deeds of investiture conferred upon them by the Shogun (the so-called *Goshuin*, or red seals of State). Other *Daimios* followed their magnanimous example, more than two hundred of them freely sacrificing, not only the privileges of their order, but also all their castles and estates. The Emperor accepted the patriotic offer, and, for the time being, appointed the aforesaid magnates to be governors, or lord-lieutenants, of their districts. But, on the 29th August 1871, there was issued an Imperial Decree which, while leaving to the feudal lords ten per cent. of their previous income as a sort of civil list, completely

mediatised them, and, for the feudal domains (or *Han*) hitherto in existence, substituted a territorial division of the Empire into arrondissements (*Ken*) and municipalities (*Fu*) under Imperial prefects.

Thereupon the princes and lords handed over to the Emperor their strongholds, arms, ships of war, and all their machinery of administration, their liberated vassals being indemnified by means of slight pensions. Each of the mediatised magnates only retained one of their town residences at Tokio. They were also readily accorded permission to repair to Europe for the purpose of study—a privilege of which many of the younger members of the nobility hastened to avail themselves.

All these changes were brought about in the greatest peace and order, and although the dissolution of so many Courts and Governments was bound to result in the ruin of thousands, there was such a general conviction of the necessity of the thing that the greatest of all Revolutions was accomplished almost without trouble. The insurrections which, in later years, broke out in various provinces of

Japan, though stirred up by members of the old military noblesse, were due to other political motives, and aimed not at restoration of the feudal system, albeit they may have been tinged with certain particularist tendencies—as in the case, more especially, of the great Satsuma rising.

One cannot resist the temptation to institute a comparison between this epoch-marking event and the course of history in France at the time of the first Revolution. The famous sitting of the National Assembly on 4th August 1789—when the French nobles, carried away by the general current of the time, made a voluntary sacrifice of their privileges—bears a certain resemblance to the action of the southern and western *Daimios*. But in Japan it was a question of giving up more than private privileges; it was the spontaneous surrender of a position carrying with it almost all the powers of autonomy and of territorial sovereignty, as well as considerable State and private revenues. It is this almost incredible event which forms the grandest phenomenon in the history of Japan—an event which throws

into the shade the achievements of Peter the Great, the reforms of Joseph II., and even the French Revolution itself. In a very short space of time Japan had overleaped centuries of European development, and was now in a fair way of taking rank as a State in the modern sense of the term.

Her next step was the emancipation of her peasantry. Prior to the Restoration, the peasant farmer had not been the proprietor of his land, but only a sort of hereditary life-tenant attached to the soil. The supreme landlord was the Emperor, who either conferred certain districts and villages as fiefs on the nobles, or assigned them a certain share of the rents. The nobles, however, not only made a practice of rack-renting these tenants, but also, as a rule, oppressed them with forced labour (*corvées*) and burdens of all sorts. By the legislation of the years between 1868 and 1874, all *corvées* were abolished without compensation, and the old hereditary life-renter became the absolute owner of the soil. The feudal burdens and the ground-rents were replaced by a system of land-taxes; and, in consideration of the fact

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that agriculture formed the backbone of the national body, the Government addressed itself as soon as possible to the task of substituting for the unequal scheme of land taxation hitherto in existence a system based on the market value of property, which entailed a cadastral survey of all the country. In 1877 the land-tax was provisionally reduced to $2\frac{1}{2}$ per cent. of the value, which, in view of the 8 to 10 per cent. income on the market worth of estates, implied a very appreciable relief in comparison with the heavy burdens of the past.

The next object of the Government was to provide the State with a system of administration which, in conformity with the Imperial promise of 6th April 1868, should secure the introduction of other reforms. This was a task which at first encountered great difficulties from the want, no less of money, than of a trained body of officials. At the head of the Government there was placed a Council of State, with an Imperial Chancellor and two Vice-Chancellors. Under them were the central authorities, or Ministries, which again were subdivided into several sections. The Im-

perial Chancellor and his first substitute belonged to the Court nobility. The second Vice-Chancellorship was for the time being given to the old Prince of Satsuma, who only, however, regarded his post as an honorary one.

The chief factor was the Council of State, in which the reform party was represented by its ablest members, who at the same time also comprised representatives of the old feudal septs—such as Saigo of the Satsuma clan, Kido for that of Choshu, Itagaki for that of Tosa, and Okuma for the Hizen clan; while Prince Sanjo, who was for many years Imperial Chancellor, and Iwakura, Vice-Chancellor, represented the old Imperial Court nobility. The central administrations—namely, the Household Ministry and that of Public Worship (abolished in 1876), Foreign, Finance, War, Navy, Education, Public Works, Justice, Home, Agriculture and Commerce, and a temporary office for Colonial Affairs—all these were gradually organised on the European pattern. At first there was a distinction between the Council of State and the Council of Ministers, or

departmental chiefs, but later on this difference came to be rejected as unpractical, and each State Councillor became at the same time the head of a Ministry. This system lasted till the creation of a Parliament, and Japan has to thank it for her greatest achievements. It would lead us too far to treat of the Japanese reforms in exhaustive detail ; a summary notice must suffice.

Primarily the reforms in question aimed at the formation of an army based on conscription, the institution of a financial *régime* founded on the budgetary system, and the elevation of the masses by means of compulsory education and the creation of higher seminaries. At the same time preparations were made for the adoption of Western means of intercourse—railways, telegraphs, steam-ship lines, and post-offices ; while hand in hand with the reform of the civil and criminal laws went the work of separating administration from justice.

The adoption of universal military service rested on recognition of the fact that it was impossible to accustom the members of the

old military noblesse to the discipline prevailing in European armies. One of the chief motives in this respect was the desire to purge the army of politics, and more especially of the particularism based on the aforesaid feudalism of the various clans. Otherwise the Imperial Government, as in the Middle Ages, would be incessantly exposed to the pronunciamientos and *coups d'état* of popular army leaders.

Another measure rendered necessary by the work of centralisation was the abolition of the privileged position of the petty nobles who, as the warrior caste, had hitherto performed all the military service of the realm, receiving, however, in exchange, certain fixed incomes accruing partly from the land, as their hereditary right, and ranking after the high nobility in the Empire. The abolition of the feudal system would have been nothing but a half-measure had the petty noblesse, with all its privileges, continued to exist. At the same time it was painful for the Government, by a mere stroke of the pen, to have to strip of all its prerogatives a class which had fought so very bravely for the Emperor, in order to extend to

all other classes its chief privilege—that of military service. These radical measures, indeed, were calculated to rob the petty nobles of their means of livelihood ; for the hereditary revenues on which their families subsisted were based on their feudal obligations and military service, as was the case, for example, with the knightly estates in Prussia.

On 28th December 1872, an Imperial proclamation announced the introduction of military service for all—to begin with the twentieth year, to last three years with the colours, and thereafter two years respectively in the first and second reserve. Besides, all capable of bearing arms were to belong, from their seventeenth to their fortieth year, to a kind of Landsturm (territorial reserve). The petty nobles were indemnified by a capitalisation of their previous incomes—this indemnity taking the form of Government stock, which was, nevertheless, calculated at such a low figure that most of them sold out—and had thus to begin the struggle for existence under most unfavourable conditions. Many of the younger and more energetic of them found employment as officers

in the army or in the police, while the better educated sought a livelihood as civil servants.

Up to the present time the corps of army officers has been drawn almost exclusively from the previous *Samurai* class. The younger of them have mostly been trained in military schools of the French model. It was to France that the Japanese Government first applied for the loan of military instructors, but later on this preference was changed into such a strong predilection for everything German in the science of soldiering that gradually the Gauls were supplanted by the Teutons, while numerous Japanese officers were even sent to Europe to learn the art of war by serving in the German army. The victories of Japan in the war with China are the best proof of her efficiency in the military field.¹

¹ The Imperial Ordinance of 16th March 1896, so important for the development of the Japanese army, will probably by this time have been carried out. According to this the end of the year 1896 should have seen in existence three army commands (that of the East, Centre, and West, the Guards Division being directly under the Mikado), comprising : 15 Infantry Divisions, or 26 Brigades, 52 regiments, 156 battalions, 13 cavalry regiments, or 65 squadrons, 13 artillery regiments—

The situation at the commencement of the Reform Era is thus described by Rathgen, who may be quoted as an authority, although he only entered the Japanese service at a later date :¹—

“The task awaiting the members of the new Government was not an easy one. It is true that they were supported by the sacred authority of the Emperor ; that by the voluntary submission of the House of Tokugawa, all the old administrative machinery, the experienced staff of the Shogunate officials of middle and lower degree could be taken over and used as the cadres, so to speak, of the new bureaus ; and that, as a result of education for

including 79 Field and Mountain Batteries ; by the year 1900 it was calculated that the artillery would reach its full strength of 117 batteries, or 39 Brigade Divisions, 13 engineer battalions—at first of 28, then of 39 companies, 13 A.S.C. battalions of 26 companies, with 1 Railway and Telegraph Battalion of 3 companies. Moreover there is no lack of munitions. Instead of from 50,000 to 60,000 recruits a year, Japan can produce twice the number without any trouble. According to the *Almanach de Gotha* for 1901, the strength of the Japanese army at the end of 1899 was 603,116.

¹ *Japan's Volkswirtschaft und Staatshaushalt*, von Karl Rathgen ; the only scientific and statistical work on the administration and finances of modern Japan, to which we have been frequently indebted in the course of the foregoing sketch.

two centuries, the common people were characterised by a docility and love of order second perhaps to no other nation in the world. But the Emperor was without any material resources. He had neither army nor income.

“The taking over by the Imperial administration of the provinces formerly controlled by the *Bakufu* (Shogunate) tended slightly to improve this situation. But no great dependence could be placed on the soldiers of the Shogun, who had been re-drilled on the French model, while the treasuries and magazines of the *Bakufu* were as good as empty. The exiguous revenue from taxes and customs was but as a drop in the bucket of the new administration's needs. The victorious districts could provide troops for the protection of the new state of things, but they had no money.

“The Government, therefore, had to place its hopes in the future and pay its way with paper money. If the common people were easily managed, the *Samurai* caste made all the more difficulties. A section of them had

just taken up arms against the new Government, and for some time it was doubtful whether the leniency displayed towards them would achieve its purpose. Of those, however, who sided with the Government, a large number had looked upon the Restoration of the Imperial Government as but the carrying out of the first part of the programme.

“The second part was to consist of the ‘expulsion of the foreigner, the hateful barbarian.’ Such, in particular, were the views prevailing among the *Shimpei*, the *Ronin* bands utilised as Imperial soldiers (these *Ronins*, being *Samurai*, stood in no relation as vassals to the territorial princes). In authoritative circles, on the contrary, all idea of a forcible extrusion of aliens had been abandoned. Such a policy was combated by Imperial proclamation and with merciless severity.”

To the foregoing by Rathgen we may add that the directors of Japanese policy were at the same time sensible enough to render subservient to their reform purposes this ultra-conservative spirit, which, after all, was only the excrescence of a passionate patriotism,

seeing that the hatred of foreigners sprang from a feeling of apprehension for the safety of the nation. The Government succeeded in bringing home to the minds of those enthusiasts that, for the time being, the future of the country did not demand the lives which they were prepared to lay down on the altar of their fatherland, but rather the surrender of the privileges and prejudices hitherto enjoyed and cherished by them, and the adoption, in their stead, of the civilisation which had made Europe great and powerful. The few Japanese who had travelled to Europe before the Revolution—men like Ito and Inouyé—acted as missionaries of the new political faith, though, in propagating it, they failed not to come in for some very hard knocks. By degrees, however, light found its way into the minds of the patriotic fanatics, of whom some of the more intelligent were sent to Europe, whence they in time returned with a complete conviction of the superiority of the West, becoming most zealous adherents of the reform party.

Apart from the *Samurai* caste the devotees

of classic Chinese literature were a cause of grave anxiety to the Government. It is of course well known that Japan received from China both her civilisation and her literature, and as both recognised the highest perfection in the system of obligations, or moral duty as taught by the Chinese ethics, it was impossible for them to take kindly to the political notions of Europe based on the principle of law. The learned men of the Chinese school looked down with supreme contempt on all the science of Europe—admitting, at most, that certain technical discoveries, like steam and electricity, and perhaps also fire-arms, might be acceptable, but setting their faces altogether against the adoption of the ethics and philosophy of the West. More particularly did they fight against the introduction of the manners and customs of family life in Europe, where, to their way of thinking, the position accorded to women was incompatible with the natural assertion of the paternal power.

Towards Christianity the adherents of this school were not, in general, hostile, their point of view being that a man's religion is his own

private affair. Moreover, the resistance of the Buddhist priests, who had meanwhile already forfeited all their influence, was scarcely worth mention—especially during the first years of reform. Thus it happened that the Government was first in a position to hush up the edicts against the native Christians, dating from the time of the Shogunate, and then to revoke them altogether. In the long run the Constitution was made to include universal freedom of conscience among the fundamental rights of the nation.¹

In no field of activity has Japan already done so much as in that of education. Thanks to the private and temple schools which had been in existence for centuries, as well as to the higher

¹ That this fundamental right is still recognised by the leading Buddhists will appear from the following newspaper extract :—"The Conference of Buddhist prelates, which sat from the 5th to 12th June 1899 at Kyoto, has been closed after having destroyed the hopes of those who counted on the Buddhist priests for the achievement of their political ends. At one time it looked as if the whole political life of Japan would receive a new impulse from the Conference, and as if it would give birth to a new political party, which, supported by the entire priesthood, would dictate conditions to the old parties, and even to the Government itself.

"But that has not been the case. Common sense and the instinct of self-preservation have characterised this assembly of

State seminaries, popular education had always been at a high level. In spite of the difficulties of the Chinese script, which the educated Japanese used as well as his own, the art of reading and writing was more diffused, among the male portion of the population at least, than it was about the same time in many States of Europe. True, the higher literature was cultivated almost exclusively by the *Samurai* caste, but even women of the better class could write verses, and possessed *belles-lettres* of their own. It was a great misfortune, however, that the whole system of popular education was on the Chinese model, the result being that the love of Celestial literature brought with it

priests as a whole, the result being that, after a brilliant speech by Count Otani, the supreme prelate of the Hon-gwan-ji, *i.e.* the great Shin sect, the Council forbade all Buddhist priests to meddle with politics, declared itself in favour of the absolute equality of all creeds before the law, and rejected a motion introduced by the minority of the Shingon, Kinazi, and Soto sects, which aimed at nothing less than the recognition of Buddhism as the established religion of the State. Count Otani, one of the most influential and enlightened prelates in the country, was particular to point out that such a revolution would be hostile to the Constitution, which guaranteed perfect equality, not only to Buddhism, but also to Christianity and all other religions; and he it was also who carried the resolution against all priestly meddling with politics."

the drawbacks of Chinese civilisation, and in particular an exaggerated idea of the value of the Confucian philosophy as compared with the progressive ideas of the West. But the European sciences were not entirely excluded ; and it was greatly to the credit of the Japanese physicians that, ever since the middle of the eighteenth century, they had applied themselves to the study of the Dutch language, thus opening up a channel which enabled the science of Europe to effect an entry among them. To this circumstance alone Japan has to ascribe the fortunate fact that she did not lapse into the same state of intellectual stagnation as China.

Apart from surgery and medicine, it was more particularly the natural sciences—geology, mathematics, and astronomy, and even military affairs during the last years of the Shogunate—that were cultivated at Nagasaki, with the assistance of the physicians of the Dutch factory, mostly Germans, like Philip Francis von Siebold ; and even as early as 1857, Yedo saw the creation of a sort of Institute for foreign science, in which instruction was given at first in Dutch, then in the English, French, and

even German and Russian languages. The chief achievement of this seminary was the compilation of an English-Japanese dictionary ; while in 1858 the first European school of medicine was also established there.

After the Restoration of the monarchy the first attempts were made, with the help of English and American teachers, to introduce something like unity into the system of public instruction. Of these endeavours the immediate result was the establishment of the "Imperial College of Engineering," which had reached a flourishing state by the year 1875. The founding of this Polytechnical College was a particularly happy idea of the Japanese Government, aiming as it did, simultaneously with the introduction of railways and telegraphs, at the training of a native staff of experts to work them. That institution has already borne rich fruit. The whole of Japan is now covered with a network of railways, which are being constantly extended.¹

¹ As a proof of the gigantic material strides which Japan was thus enabled to make, it may be mentioned that, at the end of February 1900, the country had over 3300 miles of working railways, on which more than 250 million *yen* (about 2s.)

In July 1871 the Ministry of Public Instruction was reorganised, its functions being extended to the whole Empire. Steps were also taken to introduce compulsory education, the communes being required to establish elementary schools, which were mostly built in the European style. On its own part the State called into existence a number of Normal Schools and Seminaries for the training of teachers. All these things were taken in hand in the seventies, and already in 1884 the country possessed no fewer than 29,233 elementary schools, of which 28,701 were public, with a staff of 97,313 teachers, and of pupils 2,219,375 boys and 1,013,851 girls. The district authorities were responsible for the erection of intermediate schools. In the year 1883 the total outlay for educational purposes was 10,832,393 *yen*, while in 1887 the corresponding figure

had been expended, while 80 millions more have been voted for railway extension during the next twenty years. The revenue of the lines, which give employment to more than 40,000 people, amounted, in 1898, to 27½ million *yen*, the net profit being about 15½ millions. What importance is attached in Japan to railway extension may be inferred from the fact that the future estimates for this purpose are only second to those for the Army and Navy.

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was 7,461,898. In 1883 the school property of the nation was valued at over 23½ million *yen*.

The State schools were intended for higher education in science. At the head of them stands the University of Tokio, and another of the same kind is now being created at Kioto. Furthermore, there are the Superior Normal School, six higher Middle Schools, the higher School of Commerce, the higher School for Girls, the School of Music, the Deaf and Dumb Institute, and the School of Art, which for some time even was supplied with teachers from Italy. Then, too, may be mentioned the Academy of Agriculture, the School of Posts and Telegraphs, as well as ten Military and four Naval Academies, and finally a couple of Nobility Schools for boys and girls respectively. For the year 1887-88 the estimates of the Ministry of Public Instruction amounted to 1,118,000 *yen*, while for 1889-90 the figure was 1,048,000.¹

¹ According to an official report by the Ministry concerned, the number of public State schools rose from 23,573 in 1893 to 26,776 in 1897, or an increase of 3203 within four years. In the same period the number of teachers and instructors rose

It scarcely requires to be shown that this new system of public education, in spite of all the drawbacks inevitable to a beginning, proved, in a comparatively short time, an effective means of transforming Japan in the progressive sense intended by the Government; so that, after conscription, the Ministry of Education may be said perhaps to have done most to weld the nation into a harmonious political whole. It would lead us too far to

from 62,850 to 82,545, an increase of 19,695; while the number of pupils went up in the same time from 3,316,000 to 4,016,003, an increase of 699,803. In the year 1897 the Government had succeeded in extending instruction to about 81 per cent. of all the male children of the country, and 51 per cent. of the girls. The cost of this amounted in 1897 to 18,669,049 *yen*, of which 12,545,243 were raised by means of a special school tax, the remainder being covered by the rent of the land attached to schools. But these sums do not include the outlay on account of the High Schools and the Universities above referred to, which entailed upon the Government a further expenditure of over 1½ million *yen*. Nor do these State schools include all the educational establishments of the country; for, apart from them, in the year 1893 there were in existence 2021 other private schools, of which the number in 1897, in consequence of the rapid increase of State schools, had sunk to 1677. In spite of this the number of pupils (at these private schools) had increased from 139,595 to 152,714 between the years 1893 and 1897. These figures, therefore, must be added to those above quoted in order to bring out the full percentage of children attending schools in Japan.

discuss in detail the educational system above referred to ; but it must be pointed out that it differs from all other attempts in the same direction in the Far East in so far as it makes comprehensive provision for the teaching of the female sex—a subject in which the Empress took the liveliest interest. Some particulars, however, as to the University of Tokio may be of interest—particulars which we take from the curriculum of several years back, that of 1882–83.

At that time the University included the Faculties of Medicine, Law, Science, and Literature. The sub-sections of the general Science Faculty were those of mathematics, chemistry, natural philosophy, astronomy, technology, geology, and metallurgy. The literary Faculty comprised philosophy, politics, and political economy, as well as Japanese, Chinese, English, and German literature. The Law Faculty included the following chairs: Encyclopædia of Law, Ancient Japanese Law, Modern ditto, English Law, French Law, Roman Law, International Law, General Jurisprudence and the Philosophy of Law.

When we add that the best European and American authorities were used as text-books in connection with the lectures on the above subjects, a pretty complete idea will be gained of the course of study open to all at the University of Tokio.¹

A number of Europeans and Americans were engaged partly as teachers in the schools and Universities, and partly as advisers in the various Government departments. In the year 1887 there were thus in the Japanese service 81 foreign teachers, 56 technicians, and 52 administrative officials. Here it may be mentioned that in the Medical School the lectures of the German teachers were delivered exclusively in their own language, and that the students who had been taught German at the preparatory schools were able to follow those lectures with the necessary comprehension. But as the need for foreign assistance gradu-

¹ For the course of lectures on International Law, the following authorities, among others, were prescribed: Wheaton, International Law; Wharton, Conflict of Laws; Bluntschli, Droit International Codifié; De Martens, Précis du Droit des Gens Moderne de l'Europe; Foelix, Traité du Droit Internationale Privé; Vattel, Droit des Gens, &c.

ally grew less, owing to the increasing number of native teachers who had gone to Europe to be educated, the number of foreigners in the Japanese service was proportionately diminished, although for certain subjects, especially medicine, the German professors were retained.

Between the question of popular education and that of religion in Japan there is the closest connection. We have already had occasion to point out the difference between the political system of Japan and that of other States of the Far East as based on the dogmas of Mohamedanism. But although the Japanese system of law is not, as in Mohamedan countries, founded on religious conceptions, and is therefore comparatively open to ideas of reform, it must nevertheless be always remembered that the Monarchy itself owes its unshakable firmness to the ancestor-worship of the country, and that, according to popular belief, the Emperor is the offspring of the Sun-Goddess. To honour and obey *him* is the chief commandment of Shintoism, the pristine faith of the land. Thus its religious

ideas form the foundation-stone of the monarchical principle in Japan.

In the struggle between Buddhism and Shintoism the latter so far triumphed over the former, which was introduced by way of Corea about 552 years after the birth of Christ, as to compel it to adapt itself to the worship of ancestors. During the first four centuries after the introduction of Buddhism its progress was not considerable, and it was only at the end of the sixth, but more particularly at the commencement of the ninth century, that the Buddhists succeeded in gaining a firm foothold by impressing the people with the belief that the old Shinto deities had undergone regeneration in Japan under a Buddhist form. The result was the gradual amalgamation of both creeds; but at the same time Shintoism also continued to be cultivated, the Emperor himself being its Pontifex Maximus.

Christian missionaries, heralded by the highly-gifted Jesuit, Francis Xavier, had made their appearance in Japan about the middle of the sixteenth century, and at

first achieved remarkable success. Credible enough chroniclers speak of 150,000 baptized Christians, and of about 200 churches. Envoys from the feudal lords of the Shogun journeyed to Rome, and a number of *Daimios* had hastened to adopt the Christian faith. The Pope created a bishop for Japan, and the conversion of the whole Empire to Christianity seemed assured when suddenly a storm burst over the new Church.

The cause thereof has been ascribed to the distrust felt by the military dictators of Japan towards the might of Spain; while the representatives of the Protestant Powers, especially the Dutch, were also accused of having, in their own commercial interest, calumniated both the Spaniards and the Portuguese, and thus given the first impetus to the persecution of the Christians. It would be difficult to show that a malign influence in this respect had not been exercised, although the possessors of power in Japan may have been more influenced by political motives of domestic policy, especially in the case of the Shogun Iyeyasu in his struggle for supreme

sway. Besides, during the civil wars, many of the native Christians sided with Hideyori, the adversary of this Shogun, and were ruined with him after the fall of Osaka.

During these troubles, the power of the Shogunate continued to increase, till the position of the legitimate Emperor was reduced to the level of a mere shadow of royalty. From the times of Hideyoshi the Shoguns endeavoured to elevate Buddhism, in contrast to Shintoism, to the rank of the State religion ; and, disregarding the traditional tolerance of their faith, the Buddhist priests took a lively share in the extermination of Christianity. By 1639 the work of blood had been finished, all the Christian communities having been wiped out. For two and a half centuries nearly after that the Empire, both materially and intellectually, was cut off from the rest of the world, sunk in a deep slumber, during which Buddhism rose to a most flourishing condition. That this political patronising of Buddhism aimed at the undermining of the Imperial prestige, founded on Shintoism, may readily be inferred ; and the consequence was that,

at the Restoration of the Monarchy in 1869, the former religion was soon deprived of the privileged position which it had enjoyed under the Shogunate.

The secularisation of its temple property, and the stoppage of the State income on which it had hitherto relied, gave a death-blow to Buddhism, of which the influence had already been undermined by the atheistic philosophy of Confucius. Its temples fell into ruins; many of its religious works of art found their way out of the country, and the priests of Buddha sank into deep poverty; while the abrogation of their laws of celibacy, which soon followed, scarcely compensated them for the loss of their prerogatives, although this measure undoubtedly did much to raise the tone of public morals. Now it was that Shintoism made its victorious entry into the positions forsaken by the Buddhists, and by dint of its teachings endeavoured to rise to the level of a national religion, but only with partial success. We have already seen that in the first years of the new Government the anti-Christian edicts were allowed to fall into

desuetude, being afterwards withdrawn altogether, till at last the Constitution gave expression to the principle of absolute freedom of conscience.

One of the most difficult tasks awaiting the Imperial Government on assuming the reins of power was the reform of procedure and the codification of the laws. Imagine a sudden transition from something like the state of things that prevailed in the Middle Ages, with their methods of torture, &c., to the highly developed judiciary system of the nineteenth century. The legal and judiciary system of the Shogunate had been originally formed on the Chinese model. The criminal code had undoubtedly been copied from the famous laws of the T'ang Dynasty, with this difference only that the scale of punishment did not take a corporal form (so many strokes with a bamboo cane), but that of imprisonment on the Japanese system. Moreover, the principles of Japanese civil law had been essentially borrowed from China; for it must not be forgotten that Japanese civilisation had resulted from the planting of the

social and ethical ideas of China on the hitherto little cultivated ground of Japan.

Then, again, the feudal system, by the creation of privileged classes with their caste spirit, had reduced the lower orders to a state of utter dependence on their superiors which, in the case of the agricultural population, bore a striking resemblance to the condition of the German peasantry in the Middle Ages. There thus arose three separate classes: 1, *Samurai*, or nobles; 2, *Chônin*, or burghers; 3, *Hyakushô*, or peasants—and the two last-named categories had as good as no political rights at all. Besides, owing to the division of the land into feudal domains, the nominal laws of the realm were lacking in uniformity, although the code of the Shogun was assumed to have been imposed on all his vassals. Every petty landowner ruled with inexorable rigour, not to say with cruelty, over all his subjects, and an appeal to the court at Yedo was punished as an act of insubordination, if not perhaps exactly as one of rebellion. The Chinese philosophy of Confucius, in its doctrines of moral duties, likewise entered largely into the conceptions of

law ; and as there was no precise distinction between the civil and criminal law, it frequently happened that people who had refused to pay a debt were handed over to the latter on the principle that any one failing to pay what he owed was nothing better than a thief.

A second anomaly arose from the circumstance that there was no distinction between the administrative and legal authorities. The highest administrative officials of the Shogun and the landed magnates were at the same time the superior judges ; and as the preliminary inquiry into details, no less than the preparation of judgments, was generally entrusted to the inferior functionaries, there was thus ample room and opportunity for corruption under the Shogunate. For not only were inquiries and trials conducted in secret, but the laws themselves were kept equally dark ! The celebrated collection of the Hundred Laws (a medley of civil and criminal statutes and forms of procedure) is prefaced by the remark that the use of this manuscript is exclusively reserved for the officials entrusted with its keeping. The reason for this secrecy was a Chinese maxim

that if a criminal were to know beforehand the exact amount of punishment to be meted out to him for a particular offence, he would undoubtedly be all the readier to commit it than if an unknown chastisement, possibly even the death penalty itself, were to be the consequence of his crime. *Omne ignotum pro terribilo*. Here we see the deterrent system of punishment taking the form of positive terrorism.

The provision, originating no doubt from humane motives, to the effect that infliction of punishment was only admissible after the confession of the accused, often led to the employment of torture, or to the life-incarceration of the accused for the inquisitorial purposes of surveillance. Of course there were kindly judges who as seldom as possible resorted to the employment of torture, and many are the names of those humane inquisitors which have been handed down to posterity. But, on the other hand, it is not to be denied that shocking cruelties were also sometimes committed. All the punishments were inflicted with an eye to terrorising, although in reality not quite so horrible as might be inferred from their out

ward form. The death penalty took the form of decapitation, while crucifixion consisted in binding the culprit on a cross and stabbing him in the breast by two simultaneous lance-thrusts. In the case of burning at the stake, the criminal was secretly strangled before fire was applied to the faggots. What sounds like a frightful punishment—the sawing off of the head by means of a bamboo saw—only consisted, according to the secret directions of the code, in decapitation, and in the placing of a bamboo saw, dipped in blood, beside the corpse.

Besides, the long period of peace, lasting over two hundred and fifty years, had exercised such a mollifying and refining influence on the national manners and customs that, at the beginning of the nineteenth century, as already remarked, the cruel punishments referred to were but ostensibly employed, and public opinion was by no means averse to a reform of the criminal law. A couple of years after the Restoration a Ministry of Justice had already come into existence, and its Chief, Yeto Shimpei, had introduced a new law which

no longer recognised the death penalty in an aggravated form, while it abolished torture altogether. He also invited to Japan European jurists of repute, and is said to have entertained the idea of adopting a civil law system from the Code Napoléon. Soon thereafter he engaged M. Boissonade, a French expert, not only to lecture on French and Roman law in a school attached to the Ministry of Justice, but also to draft a civil and criminal code. At the same time, in the newly-founded Imperial University, lectures were delivered in various fields of jurisprudence by English and American specialists. Their pupils were subsequently sent to England, France, and America to complete their studies, and then return home to help at once in making the new laws and applying them as judges.

From 1870 to 1878 this work was carried on with the greatest energy, resulting in the introduction of the criminal code of procedure as drafted by Boissonade. On the whole the criminal code is based on the ideas of modern Europe; while procedure, with public trial, was copied from France. But this criminal

code underwent revision in 1880, while the system of procedure was very carefully remodelled—first in 1882, and again in 1890. In the meantime a Commission, sitting at the Ministry of Justice, made a further revision of the criminal code on the ground of past experience, its proposals being embodied (1897) in a parliamentary bill. This revised draft included a number of principles which, even in Europe itself, have not yet been wholly applied—such as the division of penal acts into two categories, limitation and reduction of the number of penalties, special protection for foreigners occupying an official post, the adoption of conditional condemnation, determination of the conditions of *récidive* and *tentative* (re-committed and attempted crime), &c.

After the separation of administration from justice had been effected, there presently followed, on 2nd February 1890, the issue of a Judiciary Law on the European pattern, and on 1st February 1891, a new Civil Procedure. The former was based on that article of the Constitution which recognises the independence of judges.



The first attempts to humanise the criminal law of Japan in conformity with the Christianity of Europe has already won the recognition of some high authorities, including Professor Berner, who thus expressed himself on the draft code submitted for his opinion :—

“Japan’s system of criminal law has been rationally constructed ; the character of the various crimes has been defined in a clear and simple manner ; the penalties on the whole are proportionate and humane ; and throughout the whole scheme regard has been paid to the experience of civilised nations and the progress of European enlightenment.”

The criminal procedure, which was devised from the French “Code d’Instruction Criminelle,” aimed even at softening the numerous severities of the French law, as is shown by Professor Mayer of Vienna ; and, in addition to adopting the principle of the free examination of proofs, it is based on the principles of oral and direct evidence. Public prosecutor and Police Court Judge (for preliminary investigation) are officers with parallel functions yet completely independent of one another. In

contrast to the old Japanese methods of trial, the fullest publicity was now ensured. Professor Mayer thus summarises his opinion of the Japanese criminal procedure:—

“Altogether we have in this system of procedure a work which, without detailing its advantages and defects, imposes on the courts of Japan a task as high as it is responsible. For, if the criminal procedure is to be instrumental in achieving its purpose—which is to re-establish order by the punishment of the actual offender,—this forward-striving country, with its highly-educated judges and courts—whose composition may claim complete confidence—will require to make a great effort, as well intellectually as materially, in order to familiarise the Japanese people with the present course of things and to facilitate their almost direct transition from the old order to the new. But for those countries which have entered into a lively commerce with Japan it ought to be a subject of pleasant reflection that the trial and judgment of criminal acts are now conducted in the European manner, and that thus there

is now guaranteed to them a more secure basis for their already intimate relations with a land of which the development has been so extraordinary."

This criminal legislation, which came into force on 1st January 1882, was revised in 1890, when certain improvements, based on the experience of the interval, were introduced. Moreover, a Commission was lately said to have been appointed for the drawing up of a supplementary law empowering the courts to liberate on bail prisoners undergoing their preliminary examination.

At the present time Japan possesses a Supreme Court, seven Superior District Courts, 49 District Courts, 298 County Courts, and 1201 other tribunals detached from the last named. The number of judicial functionaries, including those of the Public Prosecution, is 1625. Of these 200 have emanated from the Law Faculty in the University or the previous School of Law attached to the Ministry of Justice, while 708 have been appointed after passing an examination, and 146 raised from the ranks of the advocates.

Not only, however, did Japan have to create a bench but also a bar as a consequence of its adoption of European forms of procedure. According to the statute, only such persons as have passed a certain examination may be called as advocates—the only exceptions being those who have graduated at the University or the School of Law aforesaid.

As for the Civil Code, the creation of this was one of the most pressing tasks awaiting the Government before it could proceed to the work of revising the foreign treaties. Every attempt to treat with the Powers for the surrender of their jurisdiction (in Japan) was met with the remark: "Your new laws must first be codified." Since 1870 this work had been going on, and all the Ministers of Justice—especially Oki and Yamada—rendered their country a real service in this respect. The first draft of the Civil Code—apart from the sections on persons and the law of succession—was the work of the French jurist, Boissonade; while to his German colleague, Professor Roesler, fell the redaction of the Commercial Code. The Civil Code,

however, was submitted once more to the consideration of a special Commission presided over by the Premier, Marquis Hirobumi Itô, which decided on a reconstruction of the work at the hands of the native jurists, Nobushige Bosumi, Masaaki Tomii, and Kenjirô Ume—all professors in the University of Tokio.

In this task of theirs the new German Civil Code was mainly taken as their guide—the legal definitions adopted being mostly translations of analogous German phrases. When one comes to think of the difficulty that was encountered in finding German equivalents for the Latin expressions of Roman law, one can only pity the Japanese translator whose duty it was, by means of Chinese script, to undertake the rendering of these phrases. A further difficulty arose when the Code had to be done into German and English—a task which was painstakingly performed by a German jurist, Dr. Lönholm, in Tokio.

The new Code, as elaborated by the before-mentioned Commission, falls into five books :
1, General ; 2, Law of Property ; 3, Law of

Obligations ; 4, Family Law ; 5, Law of Succession. The two last-named books presented great difficulties, cutting in, as they did, into old-established rights, which were in process of modification. The attempts to reconcile the legal conceptions of Europe with the traditions of the patriarchal family-life of Japan, apart from the heterogeneous views on the subject of marriage, were problems of which the future alone can bring the complete solution. For this reason the reception of the Codes among the foreigners settled in Japan was found to be much more favourable than among the Japanese Tories, who, for the rest, had pointed out—and justly so—that Boissonade's draft-code did not harmonise with the legal conceptions of the Japanese people.

With regard to the ~~Commercial~~ Code, this was re-drafted by a Commission of Japanese jurists, consisting of Professors K. Ume, K. Okano, and the Councillor in the Imperial Ministry of Justice, K. Tanabe. Of this Code we possess an English, a German, and a French translation, the two former from the pen of Dr. Lönholm. It must be a source of

special satisfaction to German jurists to know that the Japanese legislators here also followed the lines of the German code. For some time past, too, another Commission, sitting at the Ministry of Justice, had been occupied with the revision of the Civil Procedure, in order to harmonise this with the two new Codes (Civil and Commercial). In preparation also was a law relating to voluntary jurisdiction : and all this labour of law-making and codification was completed by the time the consular jurisdiction had been abolished and foreigners made subject to the tribunals of Japan.

But while thus presenting a record of the progress of legal and administrative reform in Japan, we have rather lost sight of the diplomatic negotiations which were being conducted *pari passu* therewith ; so we shall now revert to this portion of our subject and give a brief résumé of those negotiations in so far as these have been rendered accessible to us by published matter.

At the outset of our sketch we referred to the circumstance that, by reason of the ability with which some Japanese diplomatists—more

particularly the envoy at Berlin, Viscount Shuzo Aoki—managed to profit by a certain favourable turn of international affairs, the Japanese Government succeeded in getting a considerable start of the other non-Christian States by acquiring the privilege of exercising sovereign rights towards aliens, especially in matters of administration. A rather less successful step in this direction was the treaty concluded at Washington, 25th July 1878 (and ratified there 8th April 1879), between the Japanese Minister, Kiyonari Yoshida, and Mr. Evarts, Secretary of State. By this instrument the question of jurisdiction was left *in statu quo ante*; and, indeed, the situation of affairs was rendered rather worse than otherwise by Article IV., which expressly stipulated that all criminal cases connected with the Customs should be submitted for decision to the American tribunals—but with the addition that the fines and confiscations in all such matters should fall to the Japanese treasury.

For Japan a favourable concession was Article V., which recognised the right of the Government to regulate the coasting trade;

while Article I. equally acknowledged the Japanese right of Customs autonomy. In contradiction, however, to this right was the obligation undertaken by Japan (Article III.) to impose no export duties on Japanese products consigned to America. The aggregate result of this Convention, which created much sensation at the time in diplomatic circles, could at the most be regarded as a *succès d'estime*. A real success in the sense aimed at by Japan could not be hoped for, seeing that in Article X. it was clearly stipulated that this Convention would only come into force after Japan had revised her treaties with the other Powers in a similar sense.¹ But as at that time the other Treaty Powers had not the slightest intention of making the desired concessions, the so-called Yoshida Convention remained a dead letter.

It was not till 1882 that the Japanese Government succeeded in breaching the walls

¹ "The present convention shall take effect when Japan shall have concluded such conventions or revisions of existing treaties with all other treaty Powers holding relations with Japan as shall be similar in effect to the present convention, and such new conventions or revision shall also go into effect."

which had been built up around it by the extraterritorial clauses. In that year, after long preliminary negotiations, there met at Tokio a Conference of all the Treaty Powers for preparing a basis on which the respective Governments might come to some conclusion as to the modifications to be made in the existing treaties. Germany was represented by her Minister, Herr von Eisendecker, as well as her Consul-General at Yokohama, Herr Zappe; and England by Sir Harry Parkes, who had so long been accredited to the Court of Japan. The course of the negotiations brought to light more clearly than ever the antagonism between the views of those two countries—Germany showing an inclination to concede the claims of Japan, while England was for stubbornly adhering to the state of things as then existing. On this occasion Japan was represented by one of her most enlightened statesmen—Kaoru Inouyé, Minister of Foreign Affairs, who in every respect proved equal to the situation.

The Japanese plenipotentiary at once perceived that his country's only chance of pro-

curing international recognition of its claims was to break completely with its old system of isolation, to adopt the principle, practised by all the European States in their relations with one another, of the equal footing of natives and aliens in affairs of trade and commerce. It was further reasoned that great commercial countries like England and America would feel morally compelled, by the alluring prospect of the interior of Japan being thus opened up to foreigners for the practice of every lawful trade and enterprise, to recognise the equality of Japan from the point of view of international law, if they were to avoid the danger of reprobation from their own Parliaments, which naturally attached the greatest value to the creation of new markets.

On 5th April 1882 a proposal in this sense was laid before the Conference by its President, M. Inouyé, who, in return for the abolition of the consular jurisdiction of the Powers hitherto existing, offered to throw open to trade the whole Empire, and to place foreigners, in their pursuit of commerce and industry, on the same footing as the natives of Japan. By

the German Minister this communication was welcomed in the warmest manner, and most of his colleagues too, with the exception of the English delegate, acceded to the proposal, which carried with it so great a promise for the future. For had not the Japanese Government of its own accord offered to tread what was the only possible way of developing the trade and the rich resources of the country with the help of European capital?

By this admission of foreigners into the interior of the Empire, and the permission accorded them to found industrial enterprises there, the barriers would be broken down which had been raised by certain restrictive rules (including the decree against travelling inland for the purposes of trade) between the foreign merchant and the native consumer or producer.

For the rest, the Japanese Government did not demand that its jurisdiction over foreigners should begin at once, but only that there should be a transition period of five years, during which the Consular Courts should continue to some extent to exercise their authority, that

would then be gradually transferred to the native tribunals. Moreover, during this period of transition foreigners were not to enjoy, in their entirety, all the rights promised to them in the interior later on. As a special concession for the definitive period it was provided that a sufficient number of foreign jurists should be attached as titular judges to the Japanese tribunals. Besides, a number of other safeguards were suggested in order to guarantee as far as possible to resident aliens the enjoyment of a proper and impartial administration of justice. It was proposed that the new treaties should be valid for twelve years, while the corresponding tariffs, &c., might be subject to revision after the lapse of eight years.

This proposal to accord Japan the right of denunciation—which had not been vouchsafed to her in the previous treaties, and which, as a rule, had never been granted by the European Powers in their dealings with non-Christian States—excited grave misgiving on the part of some of the delegates. The Japanese plenipotentiary, however, could justly reason that his Government was entitled to insist on this

right as one due to it in accordance with the principles of international law. For by its acknowledged achievements in the field of political reform, as well as by its having taken the initiative in proposing the admittance of foreigners to its territory in conformity with the usual practice of civilised States, it had conclusively proved that it had broken with the old system of oriental isolation, and was prepared in the future to be bound by the general principles of international law.

On the whole this Conference, which continued sitting till the 27th July 1882, came to a close without any palpable result, unless, indeed, we may regard as such the solid foundation which it may be said to have laid for the subsequent revision of the treaties. Its voluminous proceedings were sent to the respective Governments, which, in the meantime, simply shelved them. Even in the political circles of Japan there now arose misgivings as to whether the proposal to open up the Empire to foreigners was not somewhat premature; and in the case, more particularly, of the offer to allow alien jurists to be attached as titular

judges to the native courts, objections were raised not wholly without reason. A deep impression was produced on public opinion by the reasoning of those who, referring to the analogy between what was thus proposed and the state of things in Egypt with its "mixed tribunals," essayed to show that the nominal recognition of Japan's sovereign rights would, in effect, be rendered nugatory by the various safeguards promised to the Powers in the field of jurisdiction, and that, therefore, the new condition of affairs could scarcely be regarded as an amelioration of the existing system of Consular Courts.

But even if those objections raised by the opponents of the measure had been to some extent well founded, as far at least as concerned the period anterior to the termination of the treaties containing a denunciation clause, it was not to be forgotten that after the lapse of the twelve years during which they were to remain in force, Japan would likewise have had a free hand, and would probably, therefore, have been able to take her stand, after 1894, simply on the ground of international law. At

the same time one must agree with these foreign critics who argued that the preparations for making and codifying the laws were not yet in a stage sufficiently advanced to impress the European Powers with the wisdom of placing their subjects under Japanese jurisdiction to the extent that this became possible later on.

The resistance offered by Sir Harry Parkes was partly based on this objection, and partly on the much less justifiable apprehension of the very numerous colony of his countrymen in Japan, who thought that their subjection to Japanese authority would produce an intolerable state of things. Political considerations, too, especially with regard to China (which at that time was still looked upon as a factor not to be despised), and perhaps also the fear that the subordination of British subjects to the sovereignty of an Asiatic Power would produce an unfavourable impression in India—all this may have finally determined the British Government to re-adhere to its negative attitude on the question of treaty revision.

The unassailable position which had been

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taken up by the Japanese Minister of Foreign Affairs, and his clear avowal that, only in return for the abolition of the hated consular jurisdiction, would commercial concessions be granted to the Powers, had already formed a complete bar to every attempt on their part to procure more favourable terms in this respect. Moreover, as the Conference had, at least in principle, been obliged to admit the claim of Japan for equality of treatment in the field of international law, the moral success of M. Inouyé's policy was incontestable ; and it was further to be assumed that, sooner or later, the Japanese Government would now at last achieve the much-desired end.

But four more years were to elapse before a second Conference met—again at Tokio—to resume the task of treaty-revision which had been begun in 1882. This Conference of all the Treaty Powers assembled on 1st May 1886. Japan was again represented by M. Inouyé (who had meanwhile been raised to the rank of Count), as well as by the envoy, Viscount Shuzo Aoki, who was specially summoned home from Berlin for the purpose ;

England by Sir Francis Plunkett, and Germany by Herr von Holleben, assisted again by Consul-General Zappe.


The commercial concessions—such as the raising of the Japanese conventional tariff which was also negotiated at this second Conference—have no direct connection with the international question which more immediately concerns us. Prominent among the other matters falling under the latter head were the proposals, coming from both sides of the Conference, with reference to the judicial system of Japan, which aimed at reconciling the very natural sensitiveness of the Japanese people to the appointment of foreign jurists as titular members of their national bench. On 15th June 1886 the English and German delegates tabled a new project which, after expressly acknowledging the progress made by Japan, since the last Conference (of 1882), in the field of legal reform, offered to her Government the assumption of jurisdiction over aliens, but without the conditions previously attached to the proposed transition period, which had met with insuperable difficulties.

The details of this so-called "Anglo-German Project" have not yet been made public, but we may content ourselves with drawing attention to two of its most salient features: first, the important fact of the agreement of England and Germany in an international affair of this kind referring to the Far East; and, secondly, the recognition thus conveyed of the progressive tendencies of the Japanese Government.

It was declared by the delegates of both Powers—and in the course of the deliberations their avowal received the adhesion of all their colleagues—that the progress made by Japan under the guidance of a Cabinet imbued with Occidental ideas offered a sufficient guarantee for carrying into effect the proposals of reform which had been made in 1882.

Unfortunately the hopes aroused by this new Conference were doomed to be as little realised as those of 1882. It is true the Anglo-German Project was accepted by the Japanese Government, but in discussing the means of carrying out the proposed changes, and the guarantees deemed necessary by some of the Powers, the Conference found it impossible to agree.

It continued to sit at intervals till the beginning of July 1887, and in the meantime the Japanese Government itself had come to entertain serious misgivings as to whether the guarantees suggested by the Powers might not tend to carry attaint to the national sovereignty. In deference to a growing spirit of popular opposition to any giving way in this direction, Count Inouyé at last, on the 19th July 1887, adjourned the Conference *sine die*, so as to allow the accomplished facts of codification to prove that the Japanese Government was at last in a position to identify its legislation with the principles prevailing in the West, and thus also show that the guarantees required were no longer necessary.

By the beginning of 1889 Count Okuma  Shigenobu had succeeded Count Inouyé as Minister of Foreign Affairs, and in the meantime the work of reform had been making considerable progress. It was now that the German Government again expressed its readiness to enter into a separate treatment of the matter. After lengthy negotiations at Berlin there was signed between Count Herbert Bis-

marck, Foreign Secretary, and the Japanese Minister, Marquis Saionji, a treaty by which Japan granted very far-reaching concessions in respect of commerce, industry, and settlement, while Germany agreed to the abolition of her consular jurisdiction and recognised the complete legal sovereignty of Japan, but only under the condition, which was still regarded as indispensable, that a number of foreign jurists should be attached to the Japanese Court of Appeal.

Owing to the latter stipulation, this treaty met with but little approval in Japan. The national *amour-propre* was wounded by the stipulation respecting foreign judges ; and when soon thereafter, in October of the same year (1889), Count Okuma fell a victim to a political assassin, the coming into force of the obnoxious treaty was suspended by the Government, as well as that of the identical agreements with Russia and the United States which had meanwhile also been concluded.¹

¹ *Vide* "Correspondence respecting the Revision of the Treaty Arrangements presented to both Houses of Parliament" (August 1894), p. 30.

A brief review of the negotiations for the revision of the treaties presents us with a repetition of the same picture at their various stages: on the part of Europe a gradually increasing confidence in the readiness and ability of Japan to develop her legal system, coupled with the endeavour to safeguard with guarantees, declared to be indispensable, the assumption by the Imperial Government of judicial functions of the sovereign kind; on the part of Japan herself, a sincere desire to do her diplomatic best to meet the wishes of the Powers. But in the long run, always, the sole result we get is a compromise running counter to the national pride of the Japanese, and of which the only effect is to cause the Conference, after many laborious sittings, to end in smoke.

These diplomatic discussions, however, had this countervailing advantage that they showed the necessity for many improvements in the Japanese laws, and that, as already remarked, they always prevented the work of general reform from coming to a stop before the whole system of regeneration had been

thoroughly carried out. But as soon as ever this was done, and more particularly after Japan had entered the ranks of the European States with a Constitution and a Parliament, the Government was in a position to reapproach the Western Powers with proposals which claimed for the Empire unrestricted freedom in the exercise of its sovereign rights in conformity with the recognised principles of public law.

While our knowledge of the earlier phases of the treaty revision negotiations is still of a very fragmentary kind—albeit occasional articles in the local Press, as well as the letters of the *Times* correspondent at Tokio, threw much interesting side-light on the various stages of the controversy—we nevertheless have the advantage of a well-arranged English Blue-Book on the subject, comprising the time between December 1888 and the final recognition of the claims of Japan.¹ This publication clearly shows how zealously each of the successive Foreign Ministers of Japan, since

¹ "Correspondence respecting the Revision of the Treaty Arrangements between Great Britain and Japan" (August 1894).

1888—viz., Count Okuma, Viscount Aoki, Viscount Enomoto, and Mr. Mutsu—had laboured to overcome the last difficulties that stood in their way. On the part of England, too, the appointment of Mr. Fraser as Minister at Tokio marked the beginning of a new period of negotiation.

At last, in March 1894, the question so long at issue found definitive solution in the negotiations between Lord Kimberley, represented by the Hon. Francis Bertie, Under-Secretary of State, on one part, and the Japanese Minister, Viscount Aoki, on the other. On 16th July the work was completed by the signature of a Treaty of Commerce and Navigation between Great Britain and Japan.¹ Article XVIII. of this Treaty provides that “the several foreign Settlements in Japan possessing exterritorial rights, shall be incorporated with the respective Japanese Communes ;” while by Article XX. it is stipulated that the present treaty, from the date it comes into force, shall be substituted for all previous Conventions, “and, in consequence, the jurisdiction

¹ See Appendix.

then exercised by British Courts in Japan, and all the exceptional privileges, exemptions, and immunities then enjoyed by British subjects as a part of or appurtenant to such jurisdiction, shall absolutely and without notice cease and determine, and thereafter all such jurisdiction shall be assumed and exercised by Japanese Courts."

In his note of 18th July of the same year (1894) to Lord Kimberley, Viscount Aoki thus gave true expression to his satisfaction at the result achieved: "The Treaty opens to Japan a new era in her foreign relations, for it proclaims for the first time its full and legitimate reception into the fellowship of nations. To Great Britain it signifies free access to the whole interior of the Japanese Empire on the usual terms of European international intercourse."

The other Treaty Powers gradually followed, but it was not till 4th April 1896 that Germany imitated the example of England with a Treaty of Commerce and Navigation, which Viscount Aoki also successfully concluded, as he had done in England. France followed

suit on 4th August the same year. Finally, on 17th July and 4th August 1899, after some legislative difficulties in Japan had been swept away, the nation was able to re-enter into the long-desired, long-looked-for enjoyment of its sovereign rights, and the Empire was opened up to trade and commerce under the usual conditions of public law.

With what spirit the Japanese Government was animated at the beginning of this new epoch may best be seen from the tenor of the Imperial Rescript of 30th June 1899 :—

“Assisted by the surviving influence of the virtues of Our ancestors, it has been Our good fortune to uphold the reign of sovereign rule and disseminate the benefits of orderly administration, resulting at home in the increased prosperity of the nation, and abroad in the strengthening of Our relations with foreign Powers. As to the revision of Treaties, Our long-cherished aspiration, exhaustive plans, and repeated negotiations have at last been crowned by a satisfactory settlement with the Treaty Powers. Now that the date assigned for the operation of the revised

Treaties is drawing near, it is a matter for heartfelt joy and satisfaction that, while, on one hand, the responsibilities devolving upon the country cannot but increase Our friendship with the Treaty Powers, on the other, it has been placed on a foundation stronger than ever.

“We expect that Our loyal subjects, ever ready faithfully to discharge public duties, will, in obedience to Our wishes, conform to the national polity of enlightenment and progress, and be united as one man in treating the people from far-off lands with cordiality, and in thereby endeavouring to uphold the character of this nation and enhance the glory of the Empire.

“Further, we command Our Ministers of State to undertake the responsibility of putting the revised Treaties into operation in such a manner that, by means of proper supervision over their subordinates, and the exercise of prudence and discretion, both Our born subjects and strangers may be enabled equally to participate in the benefits accruing from the new system, and that the friendly relations

with the Treaty Powers may be permanently cemented."

[His Imperial Majesty's Sign Manual.]

"The 30th day of the sixth month of
"the 32nd year of *Meiji*"
(June 30, 1899).

(Countersigned)

Marquis ARITOMO YAMAGATA, Minister
President of State.

Count MASAYOSHI MATSUKATA, Minister
of Finance.

Marquis TSUKUMICHI SAIGO, Minister of
the Interior.

Viscount TARO KATSURA, Minister of War.

Count SUKENORI KABAYAMA, Minister of
Education.

Viscount SHUZO AOKI, Minister of Foreign
Affairs.

Viscount AKIMASA YOSHIKAWA, Minister
of Communications.

GOMBEI YAMAMOTO, Minister of the Navy.

KEIGO KIOURA, Minister of Justice.

ARASUKE SONE, Minister of Agriculture
and Commerce.

May fulfilment wait on the hopes attached to this new epoch! Above all things, may the Japanese people never forget that their entrance into the comity of European nations carries with it duties as well as rights, and that only continuance on the path of enlightened progress already trod, with serious application to the tasks of civilisation still awaiting them, can render secure the position among the Powers which has been achieved by Japan with so much persevering labour.

APPENDIX

TREATY OF COMMERCE AND NAVIGATION BETWEEN GREAT BRITAIN AND JAPAN

Signed at London, July 16, 1894

[RATIFICATIONS EXCHANGED AT TÔKIÔ,
AUGUST 25, 1894]

HER MAJESTY the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Majesty the Emperor of Japan, being equally desirous of maintaining the relations of good understanding which happily exists between them, by extending and increasing the intercourse between their respective States, and being convinced that this object cannot better be accomplished than by revising the Treaties hitherto existing between the two countries, have resolved to complete such a revision, based upon principles of equity and mutual benefit, and, for that purpose, have named as their Plenipotentiaries, that is to say :

Her Majesty the Queen of the United Kingdom

of Great Britain and Ireland, Empress of India, the Right Honourable John, Earl of Kimberley, Knight of the Most Noble Order of the Garter, &c., &c., Her Britannic Majesty's Secretary of State for Foreign Affairs ;

And His Majesty the Emperor of Japan, Viscount Aoki Siuzo, Junii, first class of the Imperial Order of the Sacred Treasure, His Majesty's Envoy Extraordinary and Minister Plenipotentiary at the Court of St. James' ;

Who, after having communicated to each other their Full Powers, found to be in good and due form, have agreed upon and concluded the following Articles :—

ARTICLE I.

The subjects of each of the two High Contracting Parties shall have full liberty to enter, travel, or reside in any part of the dominions and possessions of the other Contracting Party, and shall enjoy full and perfect protection for their persons and property.

They shall have free and easy access to the Courts of Justice in pursuit and defence of their rights ; they shall be at liberty equally with native subjects to choose and employ lawyers, advocates, and representatives to pursue and defend their rights before such Courts, and in all other matters connected with the administration of justice they shall enjoy all the rights and privileges enjoyed by native subjects.

In whatever relates to rights of residence and travel ;

to the possession of goods and effects of any kind; to the succession to personal estate, by will or otherwise, and the disposal of property of any sort in any manner whatsoever which they may lawfully acquire, the subjects of each Contracting Party shall enjoy in the dominions and possessions of the other the same privileges, liberties, and rights, and shall be subject to no higher imposts or charges in these respects than native subjects, or subjects or citizens of the most favoured nation. The subjects of each of the Contracting Parties shall enjoy in the dominions and possessions of the other entire liberty of conscience, and, subject to the Laws, Ordinances, and Regulations, shall enjoy the right of private or public exercise of their worship, and also the right of burying their respective countrymen according to their religious customs, in such suitable and convenient places as may be established and maintained for that purpose.

They shall not be compelled, under any pretext whatsoever, to pay any charges or taxes other or higher than those that are, or may be, paid by native subjects, or subjects or citizens of the most favoured nation.

ARTICLE II.

The subjects of either of the Contracting Parties residing in the dominions and possessions of the other shall be exempted from all compulsory military service whatsoever, whether in the army, navy, National

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Guard, or militia ; from all contributions imposed in lieu of personal service ; and from all forced loans or military exactions or contributions.

ARTICLE III.

There shall be reciprocal freedom of commerce and navigation between the dominions and possessions of the two High Contracting Parties.

The subjects of each of the High Contracting Parties may trade in any part of the dominions and possessions of the other by wholesale or retail in all kinds of produce, manufactures, and merchandise of lawful commerce, either in person or by agents, singly, or in partnerships with foreigners or native subjects ; and they may there own or hire and occupy the houses, manufactories, warehouses, shops, and premises which may be necessary for them, and lease land for residential and commercial purposes, conforming themselves to the Laws, Police and Customs Regulations of the country like native subjects.

They shall have liberty freely to come with their ships and cargoes to all places, ports, and rivers in the dominions and possessions of the other which are or may be opened to foreign commerce, and shall enjoy, respectively, the same treatment in matters of commerce and navigation as native subjects, or subjects or citizens of the most favoured nation, without having to pay taxes, imposts, or duties, of whatever nature or under whatever denomination, levied in the name or

for the profit of the Government, public functionaries, private individuals, Corporations, or establishments of any kind, other or greater than those paid by native subjects, or subjects or citizens of the most favoured nation, subject always to the Laws, Ordinances, and Regulations of each country.

ARTICLE IV.

The dwellings, manufactories, warehouses, and shops of the subjects of each of the High Contracting Parties in the dominions and possessions of the other, and all premises appertaining thereto destined for purposes of residence or commerce, shall be respected.

It shall not be allowable to proceed to make a search of, or a domiciliary visit to, such dwellings and premises, or to examine or inspect books, papers, or accounts, except under the conditions and with the forms prescribed by the Laws, Ordinances, and Regulations for subjects of the country.

ARTICLE V.

No other or higher duties shall be imposed on the importations into the dominions and possessions of Her Britannic Majesty of any article, the produce or manufacture of the dominions and possessions of His Majesty the Emperor of Japan, from whatever place arriving; and no other or higher duties shall be imposed on the importation into the dominions and possessions of His Majesty the Emperor of Japan of any article,

the produce or manufacture of the dominions and possessions of Her Britannic Majesty, from whatever place arriving, than on the like article produced or manufactured in any other foreign country; nor shall any prohibition be maintained or imposed on the importation of any article, the produce or manufacture of the dominions and possessions of either of the High Contracting Parties, into the dominions and possessions of the other, from whatever place arriving, which shall not equally extend to the importation of the like article, being the produce or manufacture of any other country. This last provision is not applicable to the sanitary and other prohibitions occasioned by the necessity of protecting the safety of persons, or of cattle, or of plants useful to agriculture.

ARTICLE VI.

No other or higher duties or charges shall be imposed in the dominions and possessions of either of the High Contracting Parties on the exportation of any article to the dominions and possessions of the other than such as are, or may be, payable on the exportation of the like article to any other foreign country; nor shall any prohibition be imposed on the exportation of any article from the dominions and possessions of either of the two Contracting Parties to the dominions and possessions of the other which shall not equally extend to the exportation of the like article to any other country.

ARTICLE VII.

The subjects of each of the High Contracting Parties shall enjoy in the dominions and possessions of the other exemption from all transit duties, and a perfect equality of treatment with native subjects in all that relates to warehousing, bounties, facilities, and drawbacks.

ARTICLE VIII.

All articles which are or may be legally imported into the ports of the dominions and possessions of His Majesty the Emperor of Japan in Japanese vessels may likewise be imported into those ports in British vessels, without being liable to any other or higher duties or charges of whatever denomination than if such articles were imported in Japanese vessels; and reciprocally, all articles which are or may be legally imported into the ports of the dominions and possessions of Her Britannic Majesty in British vessels may likewise be imported into those ports in Japanese vessels, without being liable to any other or higher duties or charges of whatever denomination than if such articles were imported in British vessels. Such reciprocal equality of treatment shall take effect without distinction, whether such articles come directly from the place of origin or from any other place.

In the same manner there shall be perfect equality of treatment in regard to exportation, so that the same

export duties shall be paid and the same bounties and drawbacks allowed in the dominions and possessions of either of the High Contracting Parties on the exportation of any article which is or may be legally exported therefrom, whether such exportation shall take place in Japanese or in British vessels, and whatever may be the place of destination, whether a port of either of the Contracting Parties or of any third Power.

ARTICLE IX.

No duties of tonnage, harbour, pilotage, lighthouse, quarantine, or other similar or corresponding duties of whatever nature or under whatever denomination, levied in the name or for the profit of the Government, public functionaries, private individuals, Corporations, or establishments of any kind, shall be imposed in the ports of the dominions and possessions of either country upon the vessels of the other country which shall not equally and under the same conditions be imposed in the like cases on national vessels in general or vessels of the most favoured nation. Such equality of treatment shall apply reciprocally to the respective vessels, from whatever port or place they may arrive, and whatever may be their place of destination.

ARTICLE X.

In all that regards the stationing, loading, and unloading of vessels in the ports, basins, docks, road-

steads, harbours, or rivers of the dominions and possessions of the two countries, no privilege shall be granted to national vessels which shall not be equally granted to vessels of the other country; the intention of the High Contracting Parties being that in this respect also the respective vessels shall be treated on the footing of perfect equality.

ARTICLE XI.

The coasting trade of both the High Contracting Parties is excepted from the provisions of the present Treaty, and shall be regulated according to the Laws, Ordinances, and Regulations of Japan and of Great Britain respectively. It is, however, understood that Japanese subjects in the dominions and possessions of Her Britannic Majesty, and British subjects in the dominions and possessions of His Majesty the Emperor of Japan, shall enjoy in this respect the rights which are or may be granted under such Laws, Ordinances, and Regulations to the subjects or citizens of any other country.

A Japanese vessel laden in a foreign country with cargo destined for two or more ports in the dominions and possessions of Her Britannic Majesty, and a British vessel laden in a foreign country with cargo destined for two or more ports in the dominions and possessions of His Majesty the Emperor of Japan, may discharge a portion of her cargo at one port, and continue her voyage to the other port or ports

of destination where foreign trade is permitted, for the purpose of landing the remainder of her original cargo there, subject always to the Laws and Custom-house Regulations of the two countries.

The Japanese Government, however, agrees to allow British vessels to continue, as heretofore, for the period of the duration of the present Treaty, to carry cargo between the existing open ports of the Empire, excepting to or from the ports of Osaka, Niigata, and Ebusu-minato.

ARTICLE XII.

Any ship of war or merchant vessel of either of the High Contracting Parties which may be compelled by stress of weather, or by reason of any other distress, to take shelter in a port of the other, shall be at liberty to refit therein, to procure all necessary supplies, and to put to sea again, without paying any dues other than such as would be payable by national vessels. In case, however, the master of a merchant vessel should be under the necessity of disposing of a part of his cargo in order to defray the expenses, he shall be bound to conform to the Regulations and Tariffs of the place to which he may have come.

If any ship of war or merchant vessel of one of the Contracting Parties should run aground or be wrecked upon the coasts of the other, the local authorities shall inform the Consul-General, Consul, Vice-Consul, or Consular Agent of the district of the occurrence, or if there be no such Consular officer, they shall inform

the Consul-General, Consul, Vice-Consul, or Consular Agent of the nearest district.

All proceedings relative to the salvage of Japanese vessels wrecked or cast on shore in the territorial waters of Her Britannic Majesty shall take place in accordance with the Laws, Ordinances, and Regulations of Great Britain, and reciprocally, all measures of salvage relative to British vessels wrecked or cast on shore in the territorial waters of His Majesty the Emperor of Japan shall take place in accordance with the Laws, Ordinances, and Regulations of Japan.

Such stranded or wrecked ship or vessel, and all parts thereof, and all furnitures and appurtenances belonging thereunto, and all goods and merchandise saved therefrom, including those which may have been cast into the sea, or the proceeds thereof, if sold, as well as all papers found on board such stranded or wrecked ship or vessel, shall be given up to the owners or their agents, when claimed by them. If such owners or agents are not on the spot, the same shall be delivered to the respective Consuls-General, Consuls, Vice-Consuls, or Consular Agents upon being claimed by them within the period fixed by the laws of the country, and such Consular officers, owners, or agents shall pay only the expenses incurred in the preservation of the property, together with the salvage or other expenses which would have been payable in the case of a wreck of a national vessel.

The goods and merchandise saved from the wreck

shall be exempt from all the duties of the Customs unless cleared for consumption, in which case they shall pay the ordinary duties.

When a ship or vessel belonging to the subjects of one of the Contracting Parties is stranded or wrecked in the territories of the other, the respective Consuls-General, Consuls, Vice-Consuls, and Consular Agents shall be authorised, in case the owner or master, or other agent of the owner, is not present, to lend their official assistance in order to afford the necessary assistance to the subjects of the respective States. The same rule shall apply in case the owner, master, or other agent is present, but requires such assistance to be given.

ARTICLE XIII.

All vessels which, according to Japanese law, are to be deemed Japanese vessels, and all vessels which, according to British law, are to be deemed British vessels, shall, for the purposes of this Treaty, be deemed Japanese and British vessels respectively.

ARTICLE XIV.

The Consuls-General, Consuls, Vice-Consuls, and Consular Agents of each of the Contracting Parties, residing in the dominions and possessions of the other, shall receive from the local authorities such assistance as can by law be given to them for the recovery of deserters from the vessels of their respective countries.

It is understood that this stipulation shall not apply to the subjects of the country where the desertion takes place.

ARTICLE XV.

The High Contracting Parties agree that, in all that concerns commerce and navigation, any privilege, favour, or immunity which either Contracting Party has actually granted, or may hereafter grant, to the Government, ships, subjects, or citizens of any other State, shall be extended immediately and unconditionally to the Government, ships, subjects, or citizens of the other Contracting Party, it being their intention that the trade and navigation of each country shall be placed, in all respects, by the other on the footing of the most favoured nation.

ARTICLE XVI.

Each of the High Contracting Parties may appoint Consuls-General, Consuls, Vice-Consuls, Pro-Consuls, and Consular Agents in all the ports, cities, and places of the other, except in those where it may not be convenient to recognise such officers.

This exception, however, shall not be made in regard to one of the Contracting Parties without being made likewise in regard to every other Power.

The Consuls-General, Consuls, Vice-Consuls, Pro-Consuls, and Consular Agents may exercise all functions, and shall enjoy all privileges, exemptions, and

immunities which are, or may hereafter be, granted to Consular officers of the most favoured nation.

ARTICLE XVII.

The subjects of each of the High Contracting Parties shall enjoy in the dominions and possessions of the other the same protection as native subjects in regard to patents, trade-marks, and designs, upon fulfilment of the formalities prescribed by law.

ARTICLE XVIII.

Her Britannic Majesty's Government, so far as they are concerned, give their consent to the following arrangement :—

The several foreign Settlements in Japan shall be incorporated with the respective Japanese Communes, and shall thenceforth form part of the general municipal system of Japan.

The competent Japanese authorities shall thereupon assume all municipal obligations and duties in respect thereof, and the common funds and property, if any, belonging to such Settlements, shall at the same time be transferred to the said Japanese authorities.

When such incorporation takes place the existing leases in perpetuity under which property is now held in the said Settlements shall be confirmed, and no conditions whatsoever other than those contained in such existing leases shall be imposed in respect of

such property. It is, however, understood that the Consular authorities mentioned in the same are in all cases to be replaced by the Japanese authorities.

All lands which may previously have been granted by the Japanese Government free of rent for the public purposes of the said Settlements shall, subject to the right of eminent domain, be permanently reserved free of all taxes and charges for the public purposes for which they were originally set apart.

ARTICLE XIX.

The stipulations of the present Treaty shall be applicable, so far as the laws permit, to all the Colonies and foreign possessions of Her Britannic Majesty, excepting to those hereinafter named, that is to say, except to—

India.

The Dominion of Canada.

Newfoundland.

The Cape.

Natal.

New South Wales.

Victoria.

Queensland.

Tasmania.

South Australia.

Western Australia.

New Zealand.

Provided always that the stipulations of the present Treaty shall be made applicable to any of the above-named Colonies or foreign possessions on whose behalf notice to that effect shall have been given to the Japanese Government by Her Britannic Majesty's Representative at Tôkiô within two years from the date of the exchange of ratifications of the present Treaty.

ARTICLE XX.

The present Treaty shall, from the date it comes into force, be substituted in place of the Conventions respectively of the 23rd day of the 8th month of the 7th year of Kayei, corresponding to the 14th day of October, 1854, and of the 13th day of the 5th month of the 2nd year of Keiou, corresponding to the 25th day of June, 1866, the Treaty of the 18th day of the 7th month of the 5th year of Ansei, corresponding to the 26th day of August, 1858, and all Arrangements and Agreements subsidiary thereto concluded or existing between the High Contracting Parties; and from the same date such Conventions, Treaty, Arrangements, and Agreements shall cease to be binding, and, in consequence, the jurisdiction then exercised by British Courts in Japan, and all the exceptional privileges, exemptions, and immunities then enjoyed by British subjects as a part of or appurtenant to such jurisdiction, shall absolutely and without notice cease and determine, and thereafter all such jurisdiction shall be assumed and exercised by Japanese Courts.

ARTICLE XXI.

The present Treaty shall not take effect until at least five years after its signature. It shall come into force one year after His Imperial Japanese Majesty's Government shall have given notice to Her Britannic Majesty's Government of its wish to have the same brought into operation. Such notice may be given at any time after the expiration of four years from the date hereof. The Treaty shall remain in force for the period of twelve years from the date it goes into operation.

Either High Contracting Party shall have the right, at any time after eleven years shall have elapsed from the date this Treaty takes effect, to give notice to the other of its intention to terminate the same, and at the expiration of twelve months after such notice is given this Treaty shall wholly cease and determine.

ARTICLE XXII.

The present Treaty shall be ratified, and the ratifications thereof shall be exchanged at Tôkiô as soon as possible, and not later than six months from the present date.

In witness whereof the respective Plenipotentiaries have signed the same and have affixed thereto the seal of their arms.

Done at London, in duplicate, this sixteenth day of July, in the year of our Lord one thousand eight hundred and ninety-four.

(L.S.) KIMBERLEY.

(L.S.) AOKI.

PROTOCOL SIGNED AT LONDON, JULY 16, 1894.

THE Government of Her Majesty the Queen of Great Britain and Ireland and Empress of India, and the Government of His Majesty the Emperor of Japan, deeming it advisable in the interests of both countries to regulate certain special matters of mutual concern, apart from the Treaty of Commerce and Navigation signed this day, have, through their respective Plenipotentiaries, agreed upon the following stipulations:—

1. It is agreed by the Contracting Parties that one month after the exchange of the ratifications of the Treaty of Commerce and Navigation signed this day, the Import Tariff hereunto annexed shall, subject to the provisions of Article XXIII. of the Treaty of 1858 at present subsisting between the Contracting Parties, as long as the said Treaty remains in force and thereafter, subject to the provisions of Articles V. and XV. of the Treaty signed this day, be applicable to the articles therein enumerated, being the growth, produce, or manufacture of the dominions and possessions of Her Britannic Majesty, upon importation into Japan. But nothing contained in this Protocol, or the Tariff

hereunto annexed, shall be held to limit or qualify the right of the Japanese Government to restrict or to prohibit the importation of adulterated drugs, medicines, food, or beverages; indecent or obscene prints, paintings, books, cards, lithographic or other engravings, photographs, or any other indecent or obscene articles; articles in violation of patent, trade-mark, or copyright laws of Japan; or any other article which for sanitary reasons, or in view of public security or morals, might offer any danger.

The *ad valorem* duties established by the said Tariff shall, so far as may be deemed practicable, be converted into specific duties by a Supplementary Convention, which shall be concluded between the two Governments within six months from the date of this Protocol; the medium prices, as shown by the Japanese Customs Returns during the six calendar months preceding the date of the present Protocol, with the addition of the cost of insurance and transportation from the place of purchase, production, or fabrication, to the port of discharge, as well as commission, if any, shall be taken as the basis for such conversion. In the event of the Supplementary Convention not having come into force before the expiration of the period fixed for the said Tariff to take effect, *ad valorem* duties in conformity with the rule recited at the end of the said Tariff shall, in the meantime, be levied.

In respect of articles not enumerated in the said Tariff, the General Statutory Tariff of Japan for the

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time being in force shall, from the same time, apply, subject, as aforesaid, to the provisions of Article XXIII. of the Treaty of 1858 and Articles V. and XV. of the Treaty signed this day respectively.

From the date the Tariffs aforesaid take effect, the Import Tariff now in operation in Japan in respect of goods and merchandise imported into Japan by British subjects shall cease to be binding.

In all other respects the stipulations of the existing Treaties and Conventions shall be maintained unconditionally until the time when the Treaty of Commerce and Navigation signed this day comes into force.

2. The Japanese Government, pending the opening of the country to British subjects, agrees to extend the existing passport system in such a manner as to allow British subjects, on the production of a certificate of recommendation from the British Representative in Tôkiô, or from any of Her Majesty's Consuls at the open ports in Japan, to obtain upon application passports available for any part of the country, and for any period not exceeding twelve months, from the Imperial Japanese Foreign Office in Tôkiô, or from the chief authorities in the Prefecture in which an open port is situated; it being understood that the existing Rules and Regulations governing British subjects who visit the interior of the Empire are to be maintained.

3. The Japanese Government undertakes, before the cessation of British Consular jurisdiction in Japan, to join the International Conventions for the Protection of Industrial Property and Copyright.

4. It is understood between the two High Contracting Parties that, if Japan think it necessary at any time to levy an additional duty on the production or manufacture of refined sugar in Japan, an increased customs duty equivalent in amount may be levied on British refined sugar when imported into Japan, so long as such additional excise tax or inland duty continues to be raised.

Provided always that British refined sugar shall in this respect be entitled to the treatment accorded to refined sugar being the produce or manufacture of the most favoured nation.

5. The undersigned Plenipotentiaries have agreed that this Protocol shall be submitted to the two High Contracting Parties at the same time as the Treaty of Commerce and Navigation signed this day, and that when the said Treaty is ratified the agreements contained in the Protocol shall also equally be considered as approved, without the necessity of a further formal ratification.

It is also agreed that this Protocol shall terminate at the same time the said Treaty ceases to be binding.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done at London, in duplicate, this sixteenth day of July, in the year of our Lord one thousand eight hundred and ninety-four.

(L.S.) KIMBERLEY.

(L.S.) AOKI.

ANNEX. (*Tariff.*)

Articles.	<i>Ad valorem</i> Rates of Duty.
Caoutchouc, manufactures of	10 per cent.
Cement, Portland	5 „
Cotton—	
Yarns	8 „
Tissues of all sorts, plain or mixed with tissues of flax, hemp, or other fibre, in- cluding wool, the cotton, however, pre- dominating	10 „
Glass, window, ordinary—	
(a.) Uncoloured and unstained	8 „
(b.) Coloured, stained, or ground	10 „
Hats, including also hats of felt	10 „
Indigo, dry.	10 „
Iron and steel—	
Pig and ingot	5 „
Rails	5 „
Bar, rod, plate, and sheet	7½ „
Tinned plates	10 „
Galvanized sheet	10 „
Pipes and tubes	10 „
Lead, pig, ingot, and slab	5 „
Leather—	
Sole	15 „
Other kinds	10 „
Linen—	
Yarns	8 „
Tissues	10 „
Mercury or quicksilver	5 „
Milk, condensed or desiccated	5 „
Nails, iron	10 „

Articles.	<i>Ad valorem</i> Rates of Duty.
Oil, paraffin	10 per cent.
Paint in oil	10 "
Paper, printing	10 "
Refined sugar	10 "
Saltpetre	5 "
Screws, bolts, and nuts, iron	10 "
Silk, satins, and silk and cotton mixtures	15 "
Tin—	
Block, pig, and slab	5 "
Plates	10 "
Wax, paraffin	5 "
Wire—	
Telegraph	5 "
Iron and steel, and small rod iron and steel not exceeding $\frac{1}{4}$ inch in diameter	10 "
Woollen and worsted—	
Yarns	8 "
Tissues of all sorts, plain or mixed with other material, the wool, however, pre- dominating	10 "
Yarns of all sorts, not specially provided for	10 "
Zinc—	
Block, pig, and slab	5 "
Sheet	7 $\frac{1}{2}$ "

Rule for calculating ad valorem Duties.

Import duties payable *ad valorem* under this Tariff shall be calculated on the actual cost of the articles at the place of purchase, production, or fabrication, with the addition of the cost of insurance and transportation from the place of purchase, production, or fabrication, to the port of discharge, as well as commission, if any exists.

EXCHANGE OF NOTES

The Earl of Kimberley to Viscount Aoki.

FOREIGN OFFICE, *July 16, 1894.*

SIR,—With reference to Article XIX. of the Treaty between Great Britain and Japan signed this day, in view of the fact that some of the British Colonies and foreign possessions enumerated in that Article might be prevented from acceding to the present Treaty by reason of their inability to accept the stipulations relating to military service contained in Article II. of the said Treaty, and in order to avoid future misunderstandings, Her Majesty's Government request from the Government of Japan an assurance that any of the said British Colonies and possessions may accede to the present Treaty under the condition that, notwithstanding such accession, they shall not be bound by the stipulations of Article II.—I have, &c.

(Signed) KIMBERLEY.

Viscount Aoki to the Earl of Kimberley.

JAPANESE LEGATION,
LONDON, *July 16, 1894.*

M. LE COMTE,—In reply to the note of Her Majesty's Government, referring to Article XIX. of the Treaty between Great Britain and Japan signed this day, and requesting, for the reasons given in the

said note, an assurance that any of the British Colonies and foreign possessions enumerated in that Article may accede to the present Treaty under the condition that, notwithstanding such accession, they shall not be bound by the stipulations of Article II., the Government of Japan hereby give the assurance desired.—I have, &c.

(Signed) AOKI.

Viscount Aoki to the Earl of Kimberley.

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the Emperor of Japan, in virtue of special authorisation from his Imperial Japanese Majesty's Government, has the honour to announce to Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, that the Imperial Japanese Government, recognising the advantage of having the Codes of the Empire which have already been promulgated in actual operation when the Treaty stipulations at present subsisting between the Government of Japan and that of Great Britain cease to be binding, engage not to give the notice provided for by the first paragraph of Article XXI. of the Treaty of Commerce and Navigation, signed this day, until those portions of said Codes which are now in abeyance are brought into actual force.

The Undersigned avails, &c.

(Signed) AOKI.

JAPANESE LEGATION,
LONDON, *July* 16, 1894.



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OVERDUE.**

<i>11/13</i>	FEB 7 - 1955
<i>Thompson</i>	NOV 30 1954 LU
	SEP 9 1969 3 8
NOV 25 1936	REC'D LD AUG 29 '69 - 9 1
APR 19 1939	INTER-LIBRARY LOAN
APR 11 1955	APR 11 1979
<i>U. of Wash.</i>	INTER-LIBRARY LOAN
	Mar 10 '52 E
	REC. CIR. MAY 9 1979
26 Nov '52 FA	
NOV 12 1952 LU	
7 Jan '53 BWP	
<i>Chikoma</i>	
FEB 7 1953	
JAN 5 1953 LU	

LD 21-100m-8,'34

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